

United States
Circuit Court of Appeals

For the Ninth Circuit.

127

A. T. HAMMONS, Superintendent of Banks of
the State of Arizona, and J. S. DODSON,
Special Deputy Superintendent of Banks for
the State of Arizona,
Appellants,

vs.

MARYLAND CASUALTY COMPANY, a Corpo-
ration,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the
District of Arizona.

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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

SIDNEY SAPP and D. E. McLAUGHLIN, Hol-
brook, Arizona,

WILL E. RYAN and JOHN W. MURPHY, At-
torney General, State of Arizona, Phoenix,
Arizona,

Counsel for Appellants.

FRANCIS S. WILSON, Santa Fe, New Mexico,
and FRANK E. CURLEY and SAMUEL
PATTEE, Tucson, Arizona.

Counsel for Appellee.

United States Circuit Court of Appeals for the
Ninth Judicial Circuit.

A. T. HAMMONS, Superintendent of Banks of
the State of Arizona, and J. S. DODSON,
Special Deputy Superintendent of Banks for
the State of Arizona,

Appellants,

vs.

MARYLAND CASUALTY COMPANY, a Corpo-
ration,

Appellee.

TRANSCRIPT OF RECORD.

FIRST AMENDED BILL.

COMES NOW, MARYLAND CASUALTY
COMPANY, a corporation organized and existing

under the laws of the State of Maryland, and having its principal place of business in Baltimore in that State, plaintiff in this suit, and complains of the defendants, A. T. Hammons, the duly appointed, qualified and acting Superintendent of Banks of the State of Arizona; J. S. Dodson, the duly appointed, qualified and acting Special Deputy Superintendent of Banks of the State of Arizona; George J. Schaefer, the duly elected, qualified and acting Treasurer and Ex-officio Tax Collector of Navajo County, State of Arizona, and Navajo County, a quasi public corporation organized and existing under and by virtue of the laws of Arizona, with power to sue and be sued and with its seat of government at the town of Holbrook, Arizona, each of whom is a citizen of the State of Arizona, residing within the boundaries of said State and an inhabitant of the District of Arizona aforesaid and says:

1. That the matter in controversy herein exceeds, exclusive of interest and costs, the sum or value of three thousand dollars.

2. That on the 20th day of January, 1913, the plaintiff herein, being duly authorized to transact the business of suretyship in the State of Arizona, made, executed and delivered to defendant, Navajo County, a depository bond in the sum of five thousand dollars for the Bank of Winslow, of Winslow, Arizona, a banking corporation under the laws of the State of Arizona, as principal, to secure deposits of said County in the said Bank, said bond being in due form as required by law and at all times material hereto in full force and effect as

such depository, a copy of the said bond being attached hereto and made a part hereof as though written herein, and marked Exhibit "A"; that on the 10th day of August, 1916, the plaintiff herein, being duly authorized to transact the business of suretyship in the State of Arizona, made, executed and delivered to defendant, Navajo County, a depository bond in the sum of ten thousand dollars for the Bank of Winslow, Arizona, a banking corporation under the laws of the State of Arizona, as principal, to secure deposits of said County in the said Bank, said bond being in due form as required by law and at all times material hereto in full force and effect as such depository bond, a copy of the said bond being attached hereto and made a part hereof as though written herein and marked Exhibit "B"; that on the 6th day of January, 1920, the plaintiff herein being duly authorized to transact the business of suretyship in the State of Arizona, made, executed, and delivered to the County of Navajo, State of Arizona, a depository bond in the sum of ten thousand dollars for the Bank of Winslow, of Winslow, Arizona, a banking corporation under the laws of the State of Arizona as principal, to secure deposits of said County in the said Bank, said bond being in due form as required by law and at all times material hereto in full force and effect as such depository bond, a copy of the said bond being attached hereto and made a part hereof as though written herein, and marked Exhibit "C"; that on the 13th day of June, 1921, the plaintiff herein being duly authorized to transact the business of suretyship in the State of

Arizona, made, executed, and delivered to defendant, Navajo County, a depository bond in the sum of fifteen thousand dollars for the Bank of Winslow, of Winslow, Arizona, a banking corporation under the laws of the State of Arizona, as principal, to secure deposits of said County in the said Bank, said bond being in due form as required by law and at all times material hereto in full force and effect as such depository bond, a copy of the said bond being attached hereto and made a part hereof, as though written herein, and marked Exhibit "D."

3. That on the 4th day of October, 1924, the said Bank of Winslow, of Winslow, Arizona, closed its doors and suspended payments of deposits, and became, was and is now, insolvent, and pursuant to the laws of Arizona, the defendant, A. T. Hammons, Superintendent of Banks, took over said Bank and appointed the defendant, J. S. Dodson, Special Deputy Superintendent of Banks, as his agent, to take charge of the said Bank for purposes of liquidation, and the said defendant, J. S. Dodson, is now and ever since that date, has been, such agent in charge of the said Bank.

4. That on the date of the suspension of payments by the said Bank, as alleged in the preceding paragraph, there was on deposit funds of the defendant, Navajo County, in the said Bank in the aggregate sum of fifty-two thousand one hundred sixty-four and 20-100 (\$52,164.20) dollars, which was covered by the four bonds of the plaintiff as above described, and by thirty-five town of Winslow Improvement Bonds and worth the sum of

twelve thousand five hundred nineteen and 61-100 (\$12,519.61) dollars, and by Navajo County registered school warrants in the sum of one thousand nine hundred fifty-six 79-100 (\$1,956.79) dollars, and by Navajo County registered County warrants in the sum of two thousand eight hundred thirty-nine and 24-100 (\$2,839.24) dollars, as described and set forth in a receipt in possession of the defendant, Dodson, as the agent of the State Superintendent of Banks in charge of the said Bank aforesaid, and by additional Navajo County registered warrants in the sum of two thousand five hundred eighty-three and 37-100 (\$2,583.37) dollars, as described and set forth in a letter signed by the County Treasurer in the form of a receipt dated October 18, 1923; that the said security aggregates the sum of fifty-nine thousand eight hundred ninety-nine and 01-100 (\$59,899.01) dollars which represents the indemnity held by defendant, Navajo County, as against a loss occasioned or which might be occasioned by the failure or default of the Bank.

5. That it appears from the report of the defendant, Dodson, acting as the agent of the State Superintendent of Banks, filed by him in the Superior Court for Navajo County at the County Court House in the Town of Holbrook, Arizona, that at the date the said Bank of Winslow suspended payments, the Bank was the holder and owner for value of certain warrants of defendant, County of Navajo, as follows, to wit:

AT WINSLOW

School Warrants held as cash items	\$ 594.15
County and School Warrants transmitted to the County Treasurer for collection after having been paid by the Bank, the following; but not paid at date of closing of Bank:	
August 22, 1924, County Treasurer	288.93
September 30, 1924, County Superintendent of Schools	212.65
October 1st, 1924, County Superintendent of Schools	10.72
October 2, 1924, County Treasurer	3,497.12

AT HOLBROOK BRANCH OF
BANK OF WINSLOW

County Warrants held as cash items	\$ 24.50
County and school District Warrants paid by the Warrants paid by the Bank and transmitted to the County Treasurer for collection but not paid at date of closing of Bank:	
October 31, 1923, County School Superintendent	7.56
July 23, 1924, County Treasurer	98.83
July 24, 1924, County Treasurer	4.00
September 23, 1924, County Treasurer	82.45
September 25, 1924, County Treasurer	14.00
September 30, 1924, County School Supt.	74.45
October 3, 1924, County Treasurer	103.50

\$5,012.86

That in addition to the foregoing, it appears from said report that the Bank of Winslow was the owner and holder and in possession of, on the date that it suspended payments, registered warrants issued by defendant, Navajo County, in the aggregate sum of twenty-three thousand six hundred ninety-one and 60-100 (\$23,691.60) dollars, in the usual form as required by the laws of the State of Arizona, in payment of the Accounts of the said County for salaries, expenses and for the purchase of supplies and for other lawful County purposes, which had been purchased or paid by the Bank of Winslow prior to the date of its suspension of payments, and each of said warrants had been duly registered by the defendant, George J. Schaefer as County Treasurer and Ex-Officio Tax Collector of the County of Navajo, or his predecessor or predecessors in office, and bear interest from the date of registration at the rate of six per cent per annum as by the laws of Arizona provided; that the unregistered warrants set forth above and described as either in the possession of the Bank or in transit or in the hands of the defendant, Schaeffer, for collection, were not registered and do not bear interest; that all of the said warrants whether registered or unregistered, were in form demand notes of the defendant, Navajo County, and constituted promises to pay on presentation by the payee or on his order to the said defendant, George J. Schaefer, as such County Treasurer and Ex-Officio Collector of Navajo County, and as such were properly subjects of offset as against

the debt of the said Bank of Winslow to the County of Navajo, on account of said deposits of the said County in the said Bank.

6. That on or about the 20th day of November, 1924, the plaintiff made due demand upon the defendant, J. S. Dodson, as the agent of the State Superintendent of Banks, in charge of the Bank of Winslow, to allow and make the said offset, and tendered to defendant, Navajo County, and to defendant, George J. Schaefer, Treasurer and Ex-Officio Collector, the balance due after allowing all credits and offsets as in the following table set forth:

Total amount of County funds		
on deposit		\$52,164.20
CREDITS AND OFFSETS:		
Improvement Bonds of Town		
of Winslow pledged to		
County	\$12,519.21	
County Warrants pledged as		
security to County.....	7,379.40	
County Warrants unregis-		
tered owned and held by		
the Bank in manner above	5,012.86	
County Warrants regis-		
tered, held and owned by		
Bank	16,312.20	41,223.67
Balance due from plaintiff.....		10,940.53
Total loss		\$52,164.20

which said tender was refused, and ever since said date has been refused, and has been withdrawn for reasons hereinafter stated, and plaintiff now offers and hereby tenders to the County of Navajo whatever amount is justly due it, after the allowance of all credits and offsets herein prayed for.

7. That since the said Bank of Winslow closed its doors and the defendant Dodson took possession of its assets, as hereinbefore alleged, the said Dodson made demand upon the defendant Schaefer for the return of bonds of the Town of Winslow, approximately of the par value of seven thousand dollars (\$7,000.00) held by said Schaefer as a part of the pledge to secure County deposits in said Bank, as alleged and set forth in paragraphs four and six herein, and the said Schaefer, without right or authority, and in violation of the rights of the plaintiff in said pledge, and especially in violation of its rights to have said bonds, or the proceeds thereof, applied in deduction of the debt to the County of Navajo represented by the County deposits in the Bank of Winslow, as hereinbefore alleged, before the plaintiff could be called upon to pay for any alleged default on the part of its principal, the said Bank of Winslow returned to the said Dodson, as Special Deputy Superintendent of Banks in charge of said insolvent Bank of Winslow, the bonds so demanded, and, as plaintiff is informed and believes, and therefore states the fact to be, that said Dodson is holding the same as assets of the trust estate, free from the pledge to the County of Navajo, and intends to convert the same

to the use and benefit of the creditors of said trust estate.

8. That said action on the part of said defendant Schaefer operated to release the plaintiff from any liability to the County of Navajo, to the extent of the value of said bonds, principal and interest, and to reduce the alleged indebtedness of plaintiff to the County of Navajo in that amount, and that in all equity and justice, the defendants Hammons and Dodson should be required and ordered to return said bonds to the defendant Schaefer, to be by him reduced to money and applied in an orderly manner, to the reduction of the debt of defendant Hammons, as Superintendent of Banks, and defendant Dodson, as Special Deputy Superintendent in charge of said Bank of Winslow, to the County of Navajo.

9. That since the filing of the Bill in this case, and after the transaction described in the two preceding paragraphs, the defendant Schaefer, acting as County Treasurer of Navajo County, and upon the instructions of the Board of Supervisors of Said County, and in accordance with the laws of the State of Arizona, in such cases made and provided, has sold the remaining improvements bonds of the Town of Winslow, and turned them into money, and applied the proceeds to the reduction of the debt due to the County of Navajo by the defendant Hammons as Superintendent of Banks, and the defendant Dodson as Special Deputy Superintendent of Banks in charge of said Bank of Winslow, and as offset against the said debt the

County Warrants listed in paragraph six hereinbefore set forth as "County Warrants pledged as security to County" in the sum of \$7,379.40, with interest amounting to \$577.19, a total credit from both sources of \$13,531.76, thereby reducing said debt to \$37,752.44; that due to the action of the said County Treasurer, the defendant Schaefer, as in the two preceding paragraphs alleged, the plaintiff has been released from any liability for the default of its principal, to the extent of the bonds, principal and interest, returned to the defendant Dodson, said principal and interest amounting as plaintiff is informed and believes, to a sum in excess of \$7,800.00; that as a result of said transaction, the total demand upon plaintiff is not in excess of \$30,000.00.

10. That of the registered warrants described in paragraph five herein, it now appears that the officers of the Bank of Winslow pledged to the Treasurer of the County of Apache, State of Arizona, to secure deposits of that County in said Bank of Winslow, on or about the 28th day of September, 1924, Navajo County registered warrants in the total amount of \$8,110.38, as described and set forth in the list attached hereto and made a part hereof, as though written herein, and marked "Exhibit E"; that said pledge was without authority of law, and in violation of plaintiff's rights to claim an offset in that amount, and void because it destroys the right of the County of Navajo to claim an offset in that amount against the indebtedness of the Bank of Winslow to it, on account of said deposit,

as the officers of that County are required to do under paragraph 2436 of the Revised Statutes of the State of Arizona, 1913, Civil Code; that the title to said warrants, free from any pledge to the Treasurer of said County of Apache, is in the defendant Hammons, as Superintendent of Banks, acting by and through the defendant Dodson, as Special Deputy Superintendent of Banks, in charge of the Bank of Winslow, and should be returned to defendant Dodson by the Treasurer of Apache County, to be dealt with in this case as the Court may determine.

11. That upon the answer of the defendant Dodson on file herein, it appears that on or about the first day of February, 1925, he had in his official possession registered warrants of the County of Navajo in the aggregate sum of \$10,922.44, upon which there was due and payable, interest in the sum of \$291.00, an aggregate amount of \$11,213.44, and the total offsets which should be claimed by the said County of Navajo against the debt due it by virtue of Navajo County Warrants in the possession of said defendant Dodson, as such Special Deputy Superintendent of Banks, in charge of the Bank of Winslow, or the defendant Hammons, as Superintendent of Banks, or which should be in the possession of them, or one of them, are as follows:

In possession of Special Deputy Superintendent of Banks	\$11,213.44
In possession of Treasurer of Apache County (without computation of interest)	8,110.38
In transit as per paragraph 5 hereof (without interest)	5,012.86

Total

\$24,336.68
and as the net claim, with all credits and offsets which have been, or should have been realized upon is now reduced to approximately \$30,000.00, the foregoing offsets, with interest in addition, would reduce the amount to not in excess of \$5,000.00 as the sum due the County of Navajo from the plaintiff, as a result of the default of its principal, the Bank of Winslow.

12. That notwithstanding the demand of the plaintiff, as in the preceding paragraph recited, and notwithstanding that the defendant, George J. Schaefer, Treasurer and Ex-Officio Tax Collector of the County of Navajo is, as plaintiff is informed and believes, and therefore states the fact to be, ready and willing that the said credits and offsets should be allowed substantially as hereinbefore claimed by the plaintiff, the defendant, J. S. Dodson, Special Deputy Superintendent of Banks, and in charge of the liquidation of the said Bank of Winslow as aforesaid, acting as agent of the defendant, A. T. Hammons, Superintendent of Banks, as aforesaid, and pursuant to his instructions, has failed and refused, and does now fail and refuse

to make the said offset and to allow the same to defendant, Navajo County, and to permit the plaintiff herein to pay the loss after the said credits and offsets have been allowed in the sum set forth in the preceding paragraph, whereby the balance of five thousand dollars (\$5,000.00) representing the loss of the plaintiff herein, could be paid and plaintiff discharged from its charges and obligations thereunder, and the defendant, A. T. Hammons, Superintendent of Banks of the State of Arizona, by virtue of said refusal threatens to prevent the plaintiff herein from obtaining the benefit and advantage of the said offsets and just credits and to destroy same, to the irreparable damage of plaintiff herein.

13. That the defendant, J. S. Dodson, Special Deputy Superintendent of Banks threatens to sell, assign and transfer the said registered and unregistered warrants of Navajo County to third persons who would thereby become owners and holders of the said registered and unregistered warrants for value without notice of the claim of the plaintiff for the offsets and credits herein set forth and the plaintiff would thereby be deprived of any remedy at law and would suffer irreparable loss.

14. That the defendant, the said J. S. Dodson, as such Special Deputy Superintendent of Banks, threatens to demand payment of defendant, Navajo County, and of the defendant, George J. Schaefer as County Treasurer and Ex-Officio Tax Collector of the County of Navajo, of all said registered and

unregistered warrants or a material part thereof, and the defendant, George J. Schaefer, as such County Treasurer and Ex-Officio Tax Collector would be required to pay from the funds of said County available for that purpose, the said registered and unregistered warrants whereby the plaintiff herein would be deprived of any remedy at law in the event of a suit at law brought by the said George J. Schaefer as said County Treasurer and Ex-Officio Tax Collector of Navajo County or by the defendant Navajo County to recover upon the said bonds of the plaintiff as hereinbefore described and set forth, and the plaintiff thereby suffer irreparable loss.

15. That by the refusal of the said J. S. Dodson, Special Deputy Superintendent of Banks, and the defendant A. T. Hammons, Superintendent of Banks of the State of Arizona, to allow the said offsets, and because of the insolvency of the principal, the said Bank of Winslow, plaintiff herein has no adequate remedy at law and would be remediless unless in a court of equity where matters of this kind are properly recognizable and relievable; and plaintiff charges that the said A. T. Hammons, the Superintendent of Banks of the State of Arizona, and the said J. S. Dodson, Special Deputy Superintendent of Banks, ought, therefore, to be restrained by the order and injunction of this Honorable Court from selling, assigning or otherwise disposing of the said registered and unregistered warrants or presenting them to the County of Navajo or to the defendant George J. Schaefer,

County Treasurer and Ex-Officio Tax Collector of the said County for payment, or from in any manner disturbing or altering the *status quo* of the condition of the said warrants, both registered and unregistered, or the improvement bonds of the Town of Winslow, until the further order of this Court, or pending the determination of the issues herein presented, and that the said defendant, George J. Schaefer, as such Treasurer and Ex-Officio Tax Collector of Navajo County ought to be restrained by the order and injunction of this Honorable Court from paying the said registered or unregistered warrants pending the determination of the issues herein presented.

WHEREFORE, plaintiff prays that the defendants may answer the premises, and

1. That the defendant A. T. Hammons, Superintendent of Banks of the State of Arizona, and the defendant J. S. Dodson, Special Deputy Superintendent of Banks, and the defendant George J. Schaefer, County Treasurer and Ex-Officio Tax Collector of the County of Navajo, and Navajo County shall *immediate* list the credits and offsets as they existed on the 4th day of October, 1924, between the said County and the said Bank of Winslow.

2. That the amount of County Funds on deposit set out, to-wit: \$52,164.20, may be satisfied and discharged to the extent of the aggregate sum represented by Navajo warrants, both registered and unregistered, owned on said date by the Bank of Winslow, and the value of the Improvement Bonds of

the Town of Winslow, to-wit: \$12,519.21, and that the plaintiff herein be decreed to owe and be directed to pay the balance due the defendant Navajo County, and that plaintiff be thereby wholly relieved of all its liability under and by virtue of its Depository Bond as in this Bill set forth plaintiff being ready and willing, and hereby offering to pay to the said County the said amount.

3. That an order to show cause do issue herein, directed to the Treasurer of Apache County, State of Arizona, directing him at a time and place to be fixed by this Honorable Court, or the Judge thereof, to appear before this Court and show cause why he should not forthwith return the warrants listed herein in the list marked "Exhibit E" to the defendant Hammons, Superintendent of Banks, and the defendant Dodson, as Special Deputy Superintendent of Banks, to be disposed of as may be ordered or directed by the Court.

4. That the injunction heretofore entered herein against the defendants, and each of them, be continued until the entry of the final decree herein, and for such other and further relief in the premises as to the Court may seem just and equitable, and for its costs in this behalf expended.

Answer under oath is hereby waived.

(Signed) FRANK E. CURLEY,

(Signed) SAMUEL L. PATTEE,

Solicitors for Plaintiff,

Tucson, Arizona.

(Signed) FRANCIS C. WILSON,

Of Counsel for Plaintiff,

Santa Fe, New Mexico.

United States of America,
District of Arizona,—ss.

Samuel L. Pattee, being first duly sworn, deposes and says that he is one of the solicitors for the plaintiff herein; that the plaintiff is a foreign corporation and has no officers within the State of Arizona authorized to make this verification for it; wherefore he makes this verification for and on behalf of the said plaintiff and as his solicitor; that he has read the foregoing amended Bill in Equity, and knows the contents thereof, and that the matters and things therein stated are true, to the best of his knowledge and belief.

(Signed) SAMUEL L. PATTEE.

Subscribed and sworn to before me this 13th day of June, 1925.

(Seal) (Signed) MAUDE I. BOWEN,
Notary Public, Pima County, Arizona.

My commission will expire June 1st, 1929.

PLAINTIFF'S EXHIBIT "A."

MARYLAND CASUALTY COMPANY.

BALTIMORE.

BOND.

KNOW ALL MEN BY THESE PRESENTS:
That we, THE BANK OF WINSLOW, of Winslow, Arizona, as principal, and the MARYLAND CASUALTY COMPANY, of Baltimore, a corporation organized under the laws of the State of Maryland, with its principal place of business at

Baltimore, Maryland, duly qualified to become surety upon bonds in the State of Arizona, as surety, are held and firmly bound unto the County of Navajo, in the penal sum of Five Thousand (\$5,000.00) Dollars, lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our successors, and assigns, jointly and severally, firmly by these presents.

Dated this twentieth day of January, A. D., 1923.

THE CONDITION of this obligation is such, that whereas the above named principal, THE BANK OF WINSLOW, of Winslow, Arizona, was, on the twentieth day of January, A. D. 1913, appointed and designated by the County Treasurer of the County of Navajo, State of Arizona, with the consent of the Board of Supervisors of Navajo County, Arizona, to be a depository of public moneys for the said County of Navajo, pursuant to the conditions of Chapter Fifty-six (56) of the laws of Arizona for 1905, and amendments thereto.

NOW, THEREFORE, if the said THE BANK OF WINSLOW, of Winslow, Arizona, shall well, truly and faithfully perform and discharge all duties and responsibilities now required or that may hereafter be required of it under any law of the State of Arizona and will promptly pay out to the parties entitled thereto all public moneys of the County of Navajo in its hands or that may come into its hands, upon lawful demand therefor, and will whenever required thereto by law or lawful demand, pay over to the County Treasurer of the

County of Navajo public moneys with interest thereon at the rate of two per cent (2%) per annum, computed on daily balances, then this obligation shall be void and of no effect, otherwise to be and remain in full force and virtue.

THE BANK OF WINSLOW,

By WM. H. BAGG, Vice-President.

MARYLAND CASUALTY COMPANY,

By C. A. HANDS, Agent.

(Corporate Seal)

Attest: GEO. H. KEYES, Jr.,
Cashier.

(Corporate Seal)

Attest: H. B. WILKINSON,
Attorney-in-fact.

Approved: August 7, 1923.

C. E. OWENS,

Chairman Board of Supervisors.

JOSEPH PETERSON,

Member of Board.

W. J. CROZER,

Member of Board of Sup.

PLAINTIFF'S EXHIBIT "B."

MARYLAND CASUALTY COMPANY.

BALTIMORE.

KNOW ALL MEN BY THESE PRESENTS:
That we, THE BANK OF WINSLOW, of Winslow, Arizona, as Principal, and the MARYLAND CASUALTY COMPANY, of Baltimore, a corporation organized under the laws of the State of

Maryland, with its principal place of business at Baltimore, Maryland, and duly qualified to become surety upon bonds in the State of Arizona, as surety, are held and firmly bound unto the County of Navajo, in the penal sum of Ten Thousand Dollars (\$10,000.00) lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

Dated this tenth day of August, A. D. 1926.

THE CONDITION of this obligation is such, that whereas the above named principal, THE BANK OF WINSLOW, of Winslow, Arizona, was on the tenth day of August, A. D. 1916, appointed and designated by the County Treasurer of the County of Navajo, State of Arizona, to be a depository of public money for the said County of Navajo, pursuant to the provisions of the laws of the State of Arizona in such cases made and provided:

NOW THEREFORE, if the said THE BANK OF WINSLOW, of Winslow, Arizona, shall well, truly and faithfully perform and discharge all duties and responsibilities now required or that may hereafter be required of it under any law of the State of Arizona and will promptly pay out to the parties entitled thereto all public moneys of the County of Navajo in its hands or that may come into its hands, upon lawful demand therefor, and will, whenever required thereto by law or lawful demand, pay over to the County Treasurer of the

County of Navajo public moneys with interest thereon at the rate of two per cent (2%) per annum, computed on daily balances, then this obligation shall be void, and of no effect, otherwise to be and remain in full force and virtue.

THE BANK OF WINSLOW,

By WM. H. BAGG, Vice-President.

MARYLAND CASUALTY COMPANY,

By L. E. WHITE, Attorney-in-fact.

Attest: GEO. H. KEYES, Jr.,

Secretary.

Countersigned:

(Corporate Seal)

JOHN M. LONGAN,

Attorney-in-fact.

Approved:

C. E. OWENS,

Chairman Board of Supervisors,

Navajo County, Arizona.

JOSEPH PETERSON,

Member of Board.

W. J. CROZIER,

Member of Board of Sup.

PLAINTIFF'S EXHIBIT "C."

MARYLAND CASUALTY COMPANY.

BALTIMORE.

BOND.

KNOW ALL MEN BY THESE PRESENTS:

That we, THE BANK OF WINSLOW, of Winslow, Arizona, as principal, and the MARYLAND CASUALTY COMPANY, of Baltimore, a cor-

poration organized under the laws of the State of Maryland, with its principal place of business at Baltimore, Maryland, and duly qualified to become surety upon bonds in the State of Arizona, as surety, are held and firmly bound unto the County of Navajo, State of Arizona, in the penal sum of Ten Thousand Dollars, (\$10,000.00) lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

Dated this eighth day of January, A. D. 1920.

THE CONDITION of this obligation is such, that whereas the above named principal, THE BANK OF WINSLOW, of Winslow, Arizona, was on the eighth day of January, 1920, appointed and designated by the County Treasurer of the County of Navajo, State of Arizona, with the consent of the Board of Supervisors of Navajo County, Arizona, to be a depository of public money for the said County of Navajo, Arizona, pursuant to the provisions of the laws of the State of Arizona in such cases made and provided:

NOW, THEREFORE, if the said THE BANK OF WINSLOW, of Winslow, Arizona, shall well, truly and faithfully perform and discharge all duties and responsibilities now required, or that may hereafter be required of it under any law of the State of Arizona, and will promptly pay out to the parties entitled thereto, all public moneys of the County of Navajo in its hands or that may come into its hands, upon lawful demand thereafter, and

will, whenever required thereto by law or lawful demand, pay over to the County Treasurer of the County of Navajo, public moneys with interest thereon at the rate of two per cent (2%) per annum, computed on daily balances, then this obligation shall be void and of no effect, otherwise to be and remain in full force and virtue.

THE BANK OF WINSLOW,

By WM. H. BAGG, President.

MARYLAND CASUALTY COMPANY,

By M. H. FOSTER,

Attorney-in-fact.

Attest: GEO. H. KEYES, Jr.,

Secretary.

Countersigned:

(Corporate Seal) By JOHN M. LONGAN,
Attorney-in-fact.

Approved: August 7, 1923.

C. E. OWENS,

Chairman Board of Supervisors,
Navajo County, Arizona.

JOSEPH PETERSON,

Member of Board.

W. J. CROZIER,

Member of Board of Sup.

PLAINTIFF'S EXHIBIT "D."

MARYLAND CASUALTY COMPANY.

BALTIMORE.

BOND.

KNOW ALL MEN BY THESE PRESENTS: That we, THE BANK OF WINSLOW, of Winslow, Arizona, as principal, and the MARYLAND CASUALTY COMPANY, of Baltimore, a corporation organized under the laws of the State of Maryland, with its principal place of business at Baltimore, Maryland, and duly qualified to become surety upon bonds in the State of Arizona, as surety, are held and firmly bound unto the County of Navajo, State of Arizona, in the penal sum of Fifteen Thousand Dollars (\$15,000.00) lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

Dated this thirteenth day of June, A. D. 1921.

THE CONDITION of this obligation is such, that whereas the above named principal, THE BANK OF WINSLOW, of Winslow, Arizona, was on the sixth day of June, 1921, appointed and designated by the County Treasurer of the County of Navajo, State of Arizona, with the consent of the Board of Supervisors, of Navajo County, Arizona, to be a depository of public money for the said County of Navajo, Arizona, pursuant to the provision of the laws of the State of Arizona in such cases made and provided:

NOW, THEREFORE, if the said THE BANK OF WINSLOW, of Winslow, Arizona, shall well, truly and faithfully perform and discharge all duties and responsibilities now required, or that may hereafter be required of it under any law of the State of Arizona, and will promptly pay out to the parties entitled thereto, all public moneys of the County of Navajo in its hands or that may come into its hands, upon lawful demand therefor, and will, whenever required thereto by law or lawful demand, pay over to the County Treasurer of the County of Navajo, public moneys with interest thereon at the rate of two per cent (2%) per annum, computed on daily balances, then this obligation shall be void and of no effect, otherwise to be and remain in full force and virtue.

THE BANK OF WINSLOW,

By WM. H. BAGG,

President.

MARYLAND CASUALTY COMPANY,

By CHARLES MACBETH,

Attorney-in-fact.

Countersigned by:

(Corporate Seal)

JOHN M. LONGAN,

Attorney-in-fact.

Approved: August 7, 1923,

C. E. OWENS,

Chairman Board of Supervisors,

Navajo County, Arizona.

JOSEPH PETERSON,

Member of Board.

W. J. CROZER,

Member of Board of Sup.

Approved: July 6, 1921.

C. E. OWENS,
Chairman Board of Supervisors.
Navajo County, Arizona.

Filed June 20, 1921. M. R. Tanner, Clerk
Board of Supervisors, Navajo County, Arizona.

PLAINTIFF'S EXHIBIT "E."

No.	Amount	Fund	Date	Date Registered	No.
31	\$150.00	General	Aug. 6, 1924	Aug. 8, 1924	146
0313	8.00	Poor	Aug. 6, 1924	Aug. 9, 1924	55
0308	8.00	Poor	Aug. 6, 1924	Aug. 9, 1924	54
2493	41.67	Salary	July 31, 1924	Aug. 12, 1924	147
1379	70.40	Road	Aug. 4, 1924	Aug. 8, 1924	226
1386	63.00	Road	Aug. 4, 1924	Aug. 8, 1924	227
1197	15.85	Expense	Aug. 4, 1924	Aug. 9, 1924	276
1178	12.50	Expense	Aug. 4, 1924	Aug. 9, 1924	277
1211	1.53	Expense	Aug. 4, 1924	Aug. 8, 1924	278
1191	101.70	Expense	Aug. 4, 1924	Aug. 8, 1924	279
1192	4.00	Expense	Aug. 4, 1924	Aug. 8, 1924	280
1189	5.00	Expense	Aug. 4, 1924	Aug. 8, 1924	281
1195	2.00	Expense	Aug. 4, 1924	Aug. 8, 1924	282
1196	3.07	Expense	Aug. 4, 1924	Aug. 8, 1924	283
1180	16.00	Expense	Aug. 4, 1924	Aug. 8, 1924	284

No.	Amount	Fund	Date	Date Registered	No.
0296	8.00	Poor	July 2, 1924	Aug. 8, 1924	
2476	75.00	Salary	July 31, 1924	Aug. 2, 1924	126
2480	41.67	Salary	July 31, 1924	Aug. 1, 1924	116
2485	100.00	Salary	July 31, 1924	Aug. 1, 1924	117
24.50	41.66 ^{+1c}	Salary	July 15, 1924	July 22, 1924	109
2467	4.00	Salary	July 15, 1924	July 26, 1924	113
12	179.25	General	July 22, 1924	July 25, 1924	137
20	142.36	General	July 22, 1924	July 25, 1924	138
206	75.00	General		July 25, 1924	139
2446	41.67	Salary	July 15, 1924	July 17, 1924	96
2442	75.00	Salary	July 15, 1924	July 19, 1924	97
2451	100.00	Salary	July 15, 1924	July 18, 1924	101
10	50.00 ^{+16c}	General	July 15, 1924	July 17, 1924	133
201	4.75	General	July 14, 1924	July 18, 1924	136
1131	37.50	Expense	July 7, 1924	July 12, 1924	242
1138	22.25	Expense	July 7, 1924	July 12, 1924	243

No.	Amount	Fund	Date	Date Registered	No.
625	30.05	Expense	Oct. 16, 1923	Oct. 21, 1923	136
611	30.00	Expense	Oct. 16, 1923	Oct. 20, 1923	146
606	1.35	Expense	Oct. 16, 1923	Oct. 21, 1923	134
603	23.65	Expense	Oct. 16, 1923	Oct. 21, 1923	135
826	46.10	Road	Oct. 16, 1923	Oct. 19, 1923	128
0163	10.00	Poor	Oct. 11, 1923	Oct. 21, 1923	46
627	14.55	Expense	Oct. 16, 1923	Oct. 21, 1923	137
872	12.50	Expense	Mar. 3, 1924	Mar. 9, 1924	76
879	6.50	Expense	Mar. 3, 1924	Mar. 8, 1924	181
943	32.45	Expense	Apr. 8, 1924	Apr. 13, 1924	225
946	35.33	Expense	Apr. 8, 1924	Apr. 13, 1924	226
915	23.40	Expense	Apr. 8, 1924	Apr. 13, 1924	227
950	10.00	Expense	Apr. 8, 1924	Apr. 13, 1924	228
972	35.75	Expense	Apr. 8, 1924	Apr. 16, 1924	233
2531	25.00	Salary	Aug. 15, 1924	Aug. 19, 1924	161
2511	75.00	Salary	Aug. 15, 1924	Aug. 16, 1924	162

No.	Amount	Fund	Date	Date Registered	No.
2520	100.00	Salary	Aug. 15, 1924	Aug. 16, 1924	163
2515	41.67	Salary	Aug. 15, 1924	Aug. 16, 1924	164
1203	53.20	Expense	Aug. 4, 1924	Aug. 15, 1924	304
1162	29.00	Road	Mar. 13, 1924	Mar. 18, 1924	183
1131	300.00	General	Apr. 12, 1924	Apr. 15, 1924	129
1203	36.00	Road	Apr. 12, 1924	Apr. 15, 1924	196
1130	801.47	General	Apr. 12, 1924	Apr. 15, 1924	130
944	230.98	Expense	Apr. 8, 1924	Apr. 11, 1924	221
912	92.85	Expense	Apr. 8, 1924	Apr. 11, 1924	222
922	33.86	Expense	Apr. 8, 1924	Apr. 11, 1924	223
0314	10.00	Poor	Aug. 6, 1924	Aug. 8, 1924	
5	25.00	General	July 14, 1924	July 16, 1924	132
30	27.00	General	Aug. 6, 1924	Aug. 8, 1924	
203	17.30	General	July 14, 1924	July 17, 1924	134
202	.60	General	July 14, 1924	July 17, 1924	135
207	75.00	General	Aug. 1, 1924	Aug. 3, 1924	145

No.	Amount	Fund	Date	Date Registered	No.
1329	28.00	Road	June 30, 1924	July 17, 1924	208
1370	75.00	Road	July 15, 1924	July 17, 1924	209
1340	42.00	Road	June 30, 1924	July 12, 1924	210
1361	24.00	Road	June 30, 1924	July 12, 1924	211
1357	77.00	Road	June 30, 1924	July 10, 1924	212
1339	13.50	Road	June 30, 1924	July 10, 1924	213
1338	4.00	Road	June 30, 1924	July 10, 1924	214
1328	18.38	Road	June 30, 1924	July 10, 1924	215
1344	76.95	Road	June 30, 1924	July 18, 1924	216
1367	41.20	Road	July 7, 1924	July 13, 1924	217
1366	9.00	Road	July 7, 1924	July 20, 1924	218
1318	24.00	Road	June 30, 1924	July 20, 1924	219
1376	16.00	Road	Aug. 4, 1924	Aug. 7, 1924	220
1375	75.00	Road	Aug. 4, 1924	Aug. 6, 1924	223
1374	98.00	Road	Aug. 4, 1924	Aug. 6, 1924	222
1390	251.80	Road	Aug. 4, 1924	Aug. 12, 1924	230

No.	Amount	Fund	Date	Date Registered	No.
1387	20.00	Road	Aug. 4, 1924	Aug. 9, 1924	231
1389	11.32	Road	Aug. 4, 1924	Aug. 9, 1924	232
1378	3.76	Road	Aug. 4, 1924	Aug. 8, 1924	
1285	12.00	Road	June 3, 1924	July 23, 1924	257
1324	3.50	Road	June 30, 1924	Aug. 1, 1924	268
1115	1.25	Expense	June 30, 1924	July 16, 1924	244
1163	24.96	Expense	July 15, 1924	July 16, 1924	245
1154	20.00	Expense	July 7, 1924	July 17, 1924	246
1133	38.69	Expense	July 7, 1924	July 12, 1924	247
1156	87.78	Expense	July 7, 1924	July 12, 1924	248
1130	5.00	Expense	July 7, 1924	July 18, 1924	249
1144	25.80	Expense	July 7, 1924	July 15, 1924	250
1146	12.80	Expense	July 7, 1924	July 13, 1924	251
1145	9.40	Expense	July 7, 1924	July 13, 1924	252
1142	6.20	Expense	July 7, 1924	July 13, 1924	253
1157	26.00	Expense	July 7, 1924	July 13, 1924	254

No.	Amount	Fund	Date	Date Registered	No.
1155	207.60	Expense	July 7, 1924	July 13, 1924	255
1137	8.30	Expense	July 7, 1924	July 13, 1924	256
1184	46.54	Expense	Aug. 4, 1924	Aug. 8, 1924	
1210	51.80	Expense	Aug. 4, 1924	Aug. 7, 1924	271
1175	78.55	Expense	Aug. 4, 1924	Aug. 4, 1924	
1167	500.00	Expense	Aug. 4, 1924	Aug. 6, 1924	275
1206	2.00	Expense	Aug. 4, 1924	Aug. 10, 1924	290
1204	105.60	Expense	Aug. 4, 1924	Aug. 12, 1924	292
1177	8.95	Expense	Aug. 4, 1924	Aug. 12, 1924	293
1170	10.00	Expense	Aug. 4, 1924	Aug. 12, 1924	291
1199	16.20	Expense	Aug. 4, 1924	Aug. 12, 1924	295
1209	177.08	Expense	Aug. 4, 1924	Aug. 12, 1924	296
2458	125.00	Salary	July 15, 1924	July 15, 1924	93
2449	75.00	Salary	July 15, 1924	July 16, 1924	94
2457	30.00	Salary	July 15, 1924	July 16, 1924	95
2453	83.34	Salary	July 15, 1924	July 17, 1924	98

No.	Amount	Fund	Date	Date Registered	No.
2461	23.33	Salary	July 15, 1924	July 17, 1924	99
2448	125.00	Salary	July 15, 1924	July 17, 1924	100
2431	5.00	Salary	June 30, 1924	July 12, 1924	102
2436	3.50	Salary	June 30, 1924	July 10, 1924	103
2440	62.50	Salary	July 15, 1924	July 18, 1924	104
2444	50.00	Salary	July 15, 1924	July 20, 1924	105
2473	1.25	Salary	July 15, 1924	July 22, 1924	107
2450	37.50	Salary	July 15, 1924	July 22, 1924	108
2470	3.50	Salary	July 15, 1924	July 23, 1924	110
2466	5.00	Salary	July 15, 1924	July 23, 1924	111
2463	71.50	Salary	July 15, 1924	July 23, 1924	112
2495	32.50	Salary	July 31, 1924	July 31, 1924	115
2460	41.67	Salary	July 15, 1924	Aug. 1, 1924	121
2494	41.67	Salary	July 31, 1924	Aug. 1, 1924	122
274	62.50	Salary	July 31, 1924	Aug. 1, 1924	123
2501	4.00	Salary	July 31, 1924	Aug. 2, 1924	127

No.	Amount	Fund	Date	Date Registered	No.
2483	75.00	Salary	July 31, 1924	Aug. 2, 1924	128
2492	125.00	Salary	July 31, 1924	Aug. 7, 1924	132
2497	7.50	Salary	July 31, 1924	Aug. 7, 1924	133
2499	5.00	Salary	July 31, 1924	Aug. 7, 1924	134
2491	30.00	Salary	July 31, 1924	Aug. 7, 1924	135
2487	83.00	Salary	July 31, 1924	Aug. 7, 1924 8	136
2500	5.00	Salary	July 31, 1924	Aug. 7, 1924 5	137
0316	10.00	Salary	Aug. 6, 1924	Aug. 14, 1924	56
0309	25.00	Salary	Aug. 6, 1924	Aug. 13, 1924	57
2526	30.00	Salary	Aug. 15, 1924	Aug. 19, 1924	151
2522	83.34	Salary	Aug. 15, 1924	Aug. 17, 1924	152
2518	75.00	Salary	Aug. 15, 1924	Aug. 17, 1924	153
2530	32.50	Salary	Aug. 15, 1924	Aug. 17, 1924	154
2506	2.00	Salary	July 31, 1924	Aug. 14, 1924	156
2508	1.25	Salary	July 31, 1924	Aug. 14, 1924	157
2503	4.00	Salary	July 31, 1924	Aug. 15, 1924	158

No.	Amount	Fund	Date	Date Registered	No.
2468	4.00	Salary	July 15, 1924	Aug. 15, 1924	159
2434	4.00	Salary	June 30, 1924	Aug. 15, 1924	160
1383	35.05	Road	Aug. 4, 1924	Aug. 13, 1924	298
1187	13.20	Expense	Aug. 4, 1924	Aug. 17, 1924	361
1188	24.80	Expense	Aug. 4, 1924	Aug. 15, 1924	202
2509	62.50	Salary	Aug. 15, 1924	Aug. 12, 1924	2510
41	6.87	General	Aug. 13, 1924	Aug. 16, 1924	148
42	225.00	General	Aug. 13, 1924	Aug. 16, 1924	149
0317	10.00	Poor	Aug. 6, 1924	Aug. 16, 1924	58
1392	75.00	Road	Aug. 15, 1924	Aug. 16, 1924	299
1391	22.50	Road	Aug. 4, 1924	Aug. 16, 1924	300
1212	17.50	Expense	Aug. 4, 1924	Aug. 16, 1924	303
1185	11.30	Expense	Aug. 4, 1924	Aug. 8, 1924	
2505	3.50	Salary	July 31, 1924	Aug. 10, 1924	149

This is a copy of the Navajo County registered warrants held by Apache County as security for deposits with the St. John's branch of the Bank of Winslow.

GEORGE JARVIS,
County Treasurer.

O. K.—E. M. W.

(Title of Court and Cause.)

MOTION TO DISMISS FIRST AMENDED
BILL OF COMPLAINT.

Come now the defendants, A. T. Hammons, Superintendent of Banks of the State of Arizona, J. S. Dodson, Special Deputy Superintendent of Banks of the State of Arizona, and move this Court that this action be dismissed for want of equity herein and particularly upon the following grounds to-wit:

1. That the bill filed herein by the plaintiff does not state any facts sufficient to constitute a cause of action against the said defendants or for the relief demanded therein.

2. That this Court has no jurisdiction of the matters set out in the said bill in that all of the said matters are involved in a proceeding entitled "In the Matter of the Liquidation of the Bank of Winslow, Winslow, Arizona, having branch offices at Holbrook, Arizona, and St. Johns, Arizona, File No. 1865 in the Superior Court of the State

of Arizona, in and for the County of Navajo, the said Superior Court of the State of Arizona, in and for the County of Navajo being a Court of competent jurisdiction over the said defendant as *Ex-Officio* receiver of the Bank of Winslow and insolvent banking corporation pursuant to the laws of the State of Arizona and that said defendants are acting under the orders of said Superior Court of Navajo County, Arizona, and the property and matters referred to in said Amended Bill of Complaint are a part of the *corpus* of the Estate of The Bank of Winslow, under supervision of last-named Court.

WHEREFORE, the said defendants will ever pray.

SAPP and
McLAUGHLIN,

Solicitors for the Defendants A. T. Hammons, Superintendent of Banks of the State of Arizona and J. S. Dodson, Special Deputy Superintendent of Banks of the State of Arizona.

O. K.—E. M. W.

(Title of Court and Cause.)

ANSWER TO FIRST AMENDED BILL OF COMPLAINT.

Come now A. T. Hammons, Superintendent of Banks of the State of Arizona, and J. S. Dodson, Special Deputy Superintendent of Banks of Ari-

zona, two of the above-named defendants and for answer herein allege and show to the Court without waiving the Motion to Dismiss filed herein:

I.

That the said answering defendants expressly now and at all times hereinafter save and reserve unto themselves any and all manner of profits and advantages of exception which may have been had or taken or which may be had or taken to the many errors, uncertainties, imperfections and insufficiencies in the Plaintiff's First Amended Bill of Complaint filed herein and particularly reserve all manner of benefits and advantages of exception as to this Court, not having jurisdiction of subject matter of this action and of these defendants in the capacity in which sued.

II.

These answering defendants expressly allege herein that this Court has no jurisdiction of the matters set out in the said bill in that all of the matters therein set out and alleged are involved in a certain proceeding entitled "IN THE MATTER OF THE LIQUIDATION OF THE BANK OF WINSLOW, Winslow, Arizona, having branch offices at Holbrook, Arizona and St. Johns, Arizona." File No. 1865 in the Superior Court of the State of Arizona in and for the County of Navajo, said court being a court of competent jurisdiction and the defendant A. T. Hammons, Superintendent of Banks of the State of Arizona, herein having by operation of law, and proper proceedings in said

court pursuant to statute, been appointed as receiver of the Bank of Winslow, an insolvent banking corporation of the State of Arizona, and being thereby the Receiver of said Bank of Winslow, under and pursuant to the laws of the State of Arizona, and under the jurisdiction and control of the said Superior Court of Navajo County, Arizona, as a receiver of the said Bank and that the property and things referred to in this action are a part of the *corpus* of the estate of said Bank of Winslow aforesaid and as such are now in *custodia legis* in the said receivership proceedings.

III.

That the answering defendants admit the allegations of Paragraph No. I of the First Amended Bill of Complaint filed herein by the plaintiff and also admit the allegations of Paragraph No. II of the said First Amended Bill of Complaint filed herein by the Plaintiff, and also admit the allegations in Paragraph No. III of the said first amended bill of complaint filed herein by the plaintiff.

IV.

That the answering defendants admit the allegations of Paragraph No. IV, of the First Amended Bill of Complaint filed herein by the plaintiff in so far as the same sets out that there was on deposit in the Bank of Winslow funds of the County of Navajo County in the sum of Fifty-two Thousand One Hundred Sixty-four and 21-100 (\$52,164.21) Dollars but the defendants on information and belief deny all other allegations of the said Paragraph No. IV.

V.

The answering defendants deny the allegations of the Paragraph No. V of the said First Amended Bill of Complaint filed herein by the plaintiff and expressly allege that the only registered warrants and only warrants of Navajo County held by the Bank of Winslow on October 4th, 1924, are as set out in the defendants' Exhibit "A" hereto annexed and forming a part of this answer excepting such warrants as are set out in said First Amended Bill of Complaint as having been pledged with the County Treasurer of Apache County, Arizona, and the answering defendants further and expressly deny that the said warrants were in form demand notes of the defendant Navajo County and that they constituted promises to pay on presentation by the payee or on his order to the said defendant Geo. J. Schaefer and expressly deny that they were proper subject of offset as against the debt of Bank of Winslow to the County of Navajo on account of said deposits of said County in the said Bank and the answering defendants further expressly allege that the said warrants were each of them expressly drawn against the particular funds of Navajo County which are designated on Exhibit and which were generally known as follows: SALARY FUND, GENERAL FUND, ROAD FUND, EXPENSE FUND, INDIGENT FUND, SCHOOL GENERAL FUND AND MANUAL TRAINING FUND, and these answering defendants expressly allege that none of such funds, as such, were on de-

posit with the Bank of Winslow on October 4th, 1924, or at any other time material to this action and do further expressly allege that the said warrants with the exceptions of warrants Nos. 206, 205, 204, 172, 191, 183, 159, 184, 191, 173, 187, 186, 208, 211, 209, 180, 179, 185, 170, 152, 150, 157, 210, are not made in favor of the Bank of Winslow as payee and that therefore and thereby the said warrants except as to those made payable to the Bank of Winslow, are not receivable in payment of all debts to Navajo County, Arizona, as under the provisions of the laws of Arizona such were receivable in payment of debts and taxes due the County only from the person named therein as payee.

VI.

That the answering defendants deny that the plaintiff made due demand on the defendant J. S. Dodson as agent of the Superintendent of Banks in charge of the Bank of Winslow, to allow the said offset and on information and belief deny that any tender was made by the said plaintiff to the said Geo. J. Schaefer and further deny all the allegations of the Paragraph No. 6 of said First Amended Bill of Complaint of plaintiff except in so far as the same is admitted by other allegations of this answer.

VII.

These defendants expressly allege that all the County Warrants and Improvement Bonds which were pledged to secure deposits of Navajo County, Arizona, if any, were so pledged expressly and

only for the purpose of securing the said Navajo County for the excess of such deposit if any over and above the amount secured by the bond of Maryland Casualty with the express understanding that such pledge should remain in force and effect only so long as such deposit was in such excess and solely and only for such excess and that it was expressly understood by The Bank of Winslow and said Navajo County that when no such excess deposit existed then and in that event all such pledged property was to be returned to the Bank of Winslow and was to be free of any such pledge or obligation and that on the 4th day of October, 1924, there was only the sum of Twelve Thousand One Hundred Sixty-four and 20-100 (\$12,164.20) Dollars on deposit in excess of the bond issued by Maryland Casualty Company and said sum being secured by such warrants and bonds and that therefore defendant Schaefer properly returned to defendant Dodson the bonds referred to in Paragraph Seven of First Amended Bill of Complaint, as there was left on hand in the possession of defendant Schaefer more than enough to cover the said excess deposit and these defendants expressly deny that any action on the part of defendant Schaefer operated to relieve the plaintiff from any liability whatsoever.

VIII.

That these defendants are entitled to the return from defendants George J. Schaefer, Treasurer and *Ex-Officio* Tax Collector of Navajo County, of all warrants and bonds held by him in excess of Twelve

Thousand One Hundred Sixty-four and 20-100 (\$12,164.20) Dollars and that all such warrants and bonds in excess of said sum are not so pledged and are properly a part of the *corpus* of the Estate of The Bank of Winslow, an insolvent banking corporation, free and clear of all pledge or lien of pledge whatsoever and that if said defendant Schaefer has sold and disposed of such Warrants and Bonds in excess of said sum of Twelve Thousand One Hundred Sixty-four and 20-100 (\$12,164.20), Dollars he should be required to account to these answering defendants for such excess, but that these defendants leave plaintiff to strict proof of all such allegations as these defendants are without knowledge or information therein.

IX.

These defendants admit that certain warrants were pledged with the County Treasurer of Apache County, substantially as alleged in First Amended Bill of Complaint, but as to other allegations of Paragraph Numbered Ten of said First Amended Bill of Complaint these defendants leave the plaintiff to strict proof thereof and to the determination of this court.

X.

That except as hereinbefore expressly admitted, qualified or explained these defendants deny all the allegations of First Amended Bill of Complaint.

WHEREFORE, the answering defendants pray this Court:

1st: That the plaintiff take nothing by reason of this action and that the defendants have and recover of the plaintiff their costs and disbursements by reason of this action.

2nd: That defendant George J. Schaefer be required by *and* order of this Court to surrender to defendant A. T. Hammons, Superintendent of Banks of the State of Arizona, and J. S. Dodson, Special Deputy Superintendent of Banks of Arizona, all pledged bonds and warrants in the excess of the sum of Twelve Thousand One Hundred Sixty-four and 20-100 (\$12,164.20) Dollars, now held by him from the Bank of Winslow.

3rd: That these defendants have all equitable relief in the premises.

SAPP & McLAUGHLIN,

Solicitors of the Defendants A. T. Hammons, Superintendent of Banks of the State of Arizona, and J. S. Dodson, Special Deputy Superintendent of Banks of Arizona.

O. K.—E. M. W.

DEFENDANTS' EXHIBIT "A."
REGISTERED WARRANTS OF NAVAJO COUNTY.

Reg. No.	Fund	Payee	Date Reg.	Amount	Int. To 2-23-25
262	Salary	J. E. Crosby	10- 4-24	\$ 62.50	\$ 1.51
261	Salary	Geo. Woolford	10- 4-24	37.50	.90
263	Salary	Harvey Ballard	10- 4-24	3.50	.09
256	Salary	John L. Fish	10- 3-24	8.00	.19
257	Salary	Fred Williams	10- 3-24	30.00	.72
252	Salary	L. D. Divelbess	9- 4-24	125.00	3.00
247	Salary	O. C. Williams	10- 1-24	75.00	1.81
207	Salary	J. F. Fish	9- 7-24	4.00	.11
206	Salary	J. O. Freeman	9- 7-24	7.50	.23
	Salary	Harvey Smithson	9-20-24	2.00	.05
	Salary	J. T. Cooper	9-20-24	5.00	.13
	Salary	Geo. Woolford	9-20-24	37.50	1.00
	Salary	R. L. Ison	9-20-24	4.00	.11
	Salary	R. L. Ison	9-20-24	4.00	.11

Reg. No.	Fund	Payee	Date Reg.	Amount	Int. To 2-23-25
246	Salary	L. F. McClanahan	9-27-24	32.50	.82
215	Salary	Harvey Ballard	9-15-24	3.50	.11
225	Salary	O. C. Williams	9-16-24	75.00	1.89
224	Salary	G. T. West	9-16-24	125.00	3.33
223	Salary	J. E. Crosby	9-16-24	62.50	1.68
199	Salary	O. C. Williams	9- 4-24	75.00	2.15
200	Salary	L. D. Divelbess	9- 4-24	125.00	3.58
201	Salary	D. W. Easley	9- 4-24	41.67	1.21
210	Salary	N. A. Peterson	9- 9-24	4.00	.11
209	Salary	Willard Whipple	9- 9-24	5.00	.14
208	Salary	George Woolford	9- 9-24	37.50	1.06
214	Salary	N. A. Peterson	9-11-24	4.00	.11
213	Salary	Jos. L. Peterson	9-11-24	4.00	.11
184	Salary	R. L. Ison	8-30-24	4.00	.12
187	Salary	J. E. Crosby	8-30-24	62.50	1.86

Reg. No.	Fund	Payee	Date Reg.	Amount	Int. To 2-23-25
186	Salary	D. W. Easley	8-30-24	41.67	1.24
185	Salary	J. W. Freeman	8-30-24	7.50	.24
182	Salary	A. B. Porter	8-29-24	2.00	.06
	Salary	Harvey Ballard	8-26-24	3.50	.12
173	Salary	Harvey Smithson	8-26-24	2.00	.06
171	Salary	Jos. L. Peterson	8-23-24	4.00	.12
178	Salary	C. E. Owens	8-20-24	50.00	1.56
179	Salary	J. L. Fish	8-20-24	4.00	.12
241	Salary	Harvey Ballard	9-19-24	3.50	.10
240	Salary	Fred Williams	9-19-24	30.00	.79
233	Salary	L. D. Divelbess	9-17-24	125.00	3.31
232	Salary	Thorwald Larson	9-17-24	83.34	2.23
231	Salary	D. W. Easley	9-17-24	41.67	1.11
212	Salary	L. H. Brewer	9- 9-24	1.25	.06
203	Salary	J. W. Bazell	9- 5-24	25.00	.71

Reg. No.	Fund	Payee	Date. Reg.	Amount	Int. To 2-23-25
202	Salary	Sam W. Proctor	9- 5-24	41.67	1.20
195	Salary	J. E. Walker	9- 3-24	100.00	2.88
194	Salary	L. C. Henning	9- 3-24	75.00	2.11
197	Salary	Thorwald Larson	9- 4-24	83.34	2.40
196	Salary	C. G. Payne	9- 4-24	41.67	1.21
238	Salary	Sam W. Proctor	9-19-24	41.67	1.10
237	Salary	Sam W. Proctor	9-19-24	41.67	1.10
234	Salary	L. C. Henning	9-18-24	75.00	1.97
229	Salary	C. G. Payne	9-17-24	41.67	1.11
228	Salary	J. E. Walker	9-17-24	100.00	2.65
172	Salary	L. H. Brewer	8-22-24	1.25	.06
253	Salary	L. C. Henning	10- 3-24	75.00	1.79
249	Salary	J. E. Walker	10- 2-24	100.00	2.40
217	Salary	A. B. Porter	9-17-24	2.00	.05
206	General	Hollbrook Beh. B. of W.	10- 2-24	345.00	8.28

Reg. No.	Fund	Payee	Date Reg.	Amount	Int. To 2-23-25
205	General	Holbrook Beh. B. of W.	10- 2-24	4.70	.12
204	General	Holbrook Beh. B. of W.	10- 2-24	140.00	3.36
172	General	Holbrook Beh. B. of W.	9- 7-24	10.00	.28
198	General	Chas. F. Hansen	9-29-24	150.00	3.72
191	General	Holbrook Beh. B. of W.	8-22-24	829.00	25.57
183	General	Holbrook Beh. B. of W.	9-16-24	97.10	2.59
	General	Holbrook Beh. B. of W.	9-20-24	19.50	.52
159	General	Holbrook Beh. B. of W.	8-23-24	18.00	.56
	General	Holbrook Beh. B. of W.	8-30-24	47.30	1.39
184	General	Holbrook Beh. B. of W.	9-16-24	91.05	2.43
191	General	Holbrook Beh. B. of W.	9-19-24	150.00	3.93
	General	Bank of Winslow	9-20-24	15.00	.39
173	General	Bank of Winslow	9- 9-24	366.66	10.21
187	General	Bank of Winslow	9-18-24	15.00	.39
186	General	Bank of Winslow	9-18-24	177.23	4.65

Reg. No.	Fund	Payee	Date Reg.	Amount	Int. To 2-23-25
208	General	Bank of Winslow	10- 3-24	2,102.32	50.12
211	General	Bank of Winslow	10- 3-24	120.00	2.86
209	General	Bank of Winslow	10- 3-24	154.80	3.69
180	General	Bank of Winslow	9-17-24	25.80	.69
179	General	Bank of Winslow	9-17-24	280.00	7.42
174	General	Cooley Lumber Co.	9-11-24	86.26	2.37
158	General	Public School Pub. Co.	8-23-24	36.09	1.10
178	General	D. L. Younkin	9-15-24	250.00	6.71
237	Road	L. B. Owens	8-30-24	75.00	2.22
261	Road	L. B. Owens	9-17-24	75.00	1.99
260	Road	F. B. Gardener	9-17-24	75.00	1.99
259	Road	C. L. Rhoten	9-17-24	4.00	.11
	Road	Liona Penrod	9-20-24	35.00	.91
245	Road	Old Trails Garage	9- 9-24	1.50	.06
	Road	Carduff Trans. Co.	9- 9-24	10.00	.28

Reg. No.	Fund	Payee	Date Reg.	Amount	Int. To 2-23-25
256	Road	E. J. Larson	9-17-24	8.00	.21
265	Road	L. B. Owens	10- 2-24	75.00	1.80
	Road	A. T. S. F. Ry. Co.	9-20-24	36.00	.95
264	Road	Louis E. Johnson	9-29-24	19.25	.47
256	Road	J. W. Nikolaus	9-15-24	45.00	1.20
252	Road	John T. Flake	9-13-24	28.00	.78
251	Road	John T. Flake	9-13-24	27.00	.73
250	Road	Wayne Larson	9-13-24	25.00	.68
239	Road	S. P. Fish	9- 4-24	23.80	.69
240	Road	Chas. H. Turley	9- 9-24	28.00	.78
247	Road	Standard Oil Co.	9-11-24	54.03	1.49
246	Road	Union Oil Co.	9-11-24	37.37	2.70
248	Road	Wayne Webb	9-12-24	51.00	1.40
321	Expense	L. D. Divelbess	9- 7-24	24.00	.70
320	Expense	L. D. Divelbess	9- 7-24	500.00	14.08

Reg. No.	Fund	Payee	Date Reg.	Amount	Int. To 2-23-25
367	Expense	Elias Smith	9-19-24	5.20	.13
354	Expense	Navajo Garage	9-15-24	48.15	1.28
351	Expense	Louis Huckguy	9-13-24	122.80	3.34
350	Expense	Holbrook Ice & Supply	9-13-24	13.30	.36
349	Expense	Hol. Lt. & Pwr. Co.	9-13-24	11.30	.32
348	Expense	J. T. Cooper	9-13-24	5.20	.14
328	Expense	Bank of Winslow	9- 9-24	15.00	.42
326	Expense	A. & B. Schuster Co.	9- 9-24	24.70	.70
327	Expense	J. E. Crosby	9- 9-24	19.04	.53
325	Expense	Dr. John R. Walls	9- 9-24	26.00	.73
324	Expense	Dr. John R. Walls	9- 9-24	6.00	.17
343	Expense	Thorwald Larson	9-11-24	44.95	1.24
342	Expense	Standard Oil Co.	9-11-24	29.15	.80
341	Expense	Union Oil Co.	9-11-24	20.43	.58
340	Expense	Union Oil Co.	9-11-24	41.93	1.16

Reg. No.	Fund	Payee	Date Reg.	Amount	Int. To
339	Expense	Western Union Co.	9-11-24	18.38	2-23-25 .53
346	Expense	Mrs. May Thomas	9-12-24	3.20	.08
345	Expense	W. B. Woods	9-12-24	64.65	1.78
366	Expense	Mrs. Bertha Kirkland	9-19-24	5.00	.13
364	Expense	Dr. J. N. Heywood	9-17-24	120.00	3.18
363	Expense	Julia T. Fish	9-17-24	3.80	.11
347	Expense	Maria H. DeMartinez	9-12-24	40.00	1.10
344	Expense	Mtn. States Tele. Co.	9-11-24	25.55	.72
337	Expense	Carduff Transfer Co.	9- 9-24	6.39	.19
336	Expense	Old Trails Garage	9- 9-24	1.50	.06
335	Expense	Mail Publishing Co.	9- 9-24	18.00	.50
334	Expense	Mail Publishing Co.	9- 9-24	56.75	1.58
333	Expense	Mary G. Hungerford	9- 9-24	34.60	.98
316	Expense	C. G. Payne	9- 5-24	16.50	.49
355	Expense	Mrs. R. D. McGregor	9-15-24	37.00	1.00

Reg. No.	Fund	Payee	Date Reg.	Amount	Int. To
69	Indigent	Mrs. Ora Myers	9-15-24	25.00	2-23-25 .67
61	Indigent	Mrs. Helen Thysing	9- 9-24	10.00	.28
64	Indigent	Cornelia Atencio	9-11-24	10.00	.28
67	Indigent	Geo. Willis	9-12-24	10.00	.27
68	Indigent	Chas. Roberts	9-12-24	8.00	.22
66	Indigent	Carlos Baca	9-11-24	8.00	.22
65	Indigent	Mars Martinez Chavez	9-11-24	8.00	.22
63	Indigent	Luis Marales	9- 9-24	8.00	.22
62	Indigent	Pedro Roche	9- 9-24	8.00	.22
185	School Gen.	Holbrook Br. B. of W.	9-16-24	75.00	1.89
170	School Gen.	Holbrook Br. B. of W.	9- 4-24	75.00	2.15
152	School Gen.	Holbrook Br. B. of W.	8-18-24	76.72	2.43
150	School Gen.	Holbrook Br. B. of W.	8-18-24	90.00	2.84
151	School Gen.	Kate V. Kinney	8-18-24	75.00	2.37
176	School Gen.	Nav. Apa. Tele. Co.	9-12-24	9.60	.27

Reg. No.	Fund	Payee	Date Reg.	Amount	Int. To
177	School Gen.	Western Union	9-12-24	.72	2-23-25 .05
175	School Gen.	Holbrook Tribune	9-11-24	8.00	.22
157	Man. Train.	Holbrook Br. B. of W.	8-22-24	208.33	6.45
210	Man. Train.	Bank of Winslow	10- 2-24	165.00	3.75
TOTAL.....				\$10,922.44	\$291.00

Interest accrual at the Rate of \$1,83 per day from February 23d, 1925.

O. K.—E. M. W.

Regular October, 1924, Term—Phoenix.

In the United States District Court in and for the
District of Arizona.

(Minute Entry of Thursday, February 26, 1925.)

HONORABLE F. C. JACOBS,
United States District Judge, Presiding.

(E.-93—Prescott.)

MARYLAND CASUALTY COMPANY, a Cor-
poration,

Complainant,

vs.

A. T. HAMMONS et al.,

Defendants.

PROCEEDINGS OF HEARING ON APPLI-
CATION FOR PRELIMINARY INJUNC-
TION, ETC.

Samuel L. Pattee, Esquire, appears on behalf of the plaintiff, and Messrs. Sidney Sapp and D. E. McLaughlin, appear for the defendants, A. T. Hammons and J. S. Dodson, and P. A. Sawyer, Esquire, appears for the defendant Navajo County.

On motion of counsel for the plaintiff it is ORDERED that Francis C. Wilson, Esq., be entered as associate counsel for the plaintiff.

Defendants' motion to dismiss the bill of complaint herein is heard and argued by respective counsel, whereupon, it is

ORDERED that said motion to dismiss be and the same is hereby denied on all grounds. Exception is entered to said ruling by defendants.

The application for preliminary or interlocutory injunction is now heard and argued by respective counsel, whereupon, it is

ORDERED that said application be and the same is hereby granted. The defendants except to said ruling of the Court.

It is now stipulated by and between the respective counsel in open court that the present bond is sufficient until the final determination of the matter, and thereupon, it is

ORDERED that further hearing or trial of this matter be and the same is hereby set for the 18th day of March, 1925.

O. K.—E. M. W.

Regular October, 1924, Term—At Phoenix.

(Minute Entry of Friday, March 13th, 1925.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

(Court and Cause.)

E.-93—(Prescott.)

It is ordered that the order heretofore entered on February 26, 1925, setting this case for hearing on March 18, 1925, be and the same is vacated and set aside.

O. K.—E. M. W.

Regular October, 1924, Term—At Phoenix.
(Minute Entry of Saturday, March 21, 1925.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

The plaintiff's motion to require the defendants to produce certain papers, documents and books for inspection, comes on regularly for hearing, Samuel L. Pattee, Esq., appears as solicitor for the plaintiff, and D. E. McLaughlin, Esq., appears as solicitor for the defendants. The motion is duly heard and by the Court granted, counsel to prepare and present necessary order for signature of the Judge.

O. K.—E. M. W.

Regular March, 1925, Term—At Prescott.

(Minute Entry of Monday, July 6, 1925.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

Defendants' Motion to Dismiss First Amended Bill of Complaint comes on for hearing this date. No one appears for either party. Whereupon, said matter is submitted to the Court, and the Court having fully considered the same,

DOES NOW ORDER that said Motion be, and the same is hereby denied. Exception to said ruling of the Court is saved to Defendants.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Saturday, Dec. 5, 1925.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

(Court and Cause.)

(E.-93—Prescott.)

W. E. Ryan, Esq., appears specially for the defendants. Francis Wilson, Esq., appears for the plaintiff.

IT IS ORDERED that this case be set for trial January 6th, 1926, at 10 o'clock A. M.

IT IS FURTHER ORDERED that this case be transferred to the Phoenix Division for trial.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Wednesday, Jan. 6, 1926.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

(Court and Cause.)

(E.-93—Prescott.)

This cause comes on regularly for trial at this time and place. Samuel L. Pattee, Esquire, and F. E. Wilson, Esquire, appear for the plaintiff, D. E. McLaughlin, Esquire, appears for the defendants Hammons and Dodson. W. E. Ryan, Esquire, is present for the defendant Navajo County. Isaac Barth, Esquire, appears for Apache County, Intervenor. Henderson Stockton, Esquire, appears for Benjamin Brown, Jr., National Surety Company, and Fidelity and Deposit Company, Intervenor, and files Motion to intervene, and said

Motion is set for hearing at 11 o'clock A. M. this date.

On motion of Samuel L. Pattee, for the plaintiff, the Order to Show Cause is ORDERED discharged, said defendants Apache County and George Jarvis, County Treasurer, having filed complaint in intervention herein.

By consent of all counsel trial of this matter is continued to Thursday, January 7th, 1926, at 10 o'clock A. M., that stipulation as to certain matters may be agreed upon between counsel.

Subsequently, the application of Benjamin Brown, Jr., National Surety Company, and Fidelity and Deposit Company for permission to intervene comes on for hearing, Henderson Stockton, Esquire, appearing for the said intervenors.

Arguments of respective counsel are heard on said application to intervene and the objection of Navajo County, defendant to said application; whereupon, the Court being advised in the premises overrules said objection and enters the following Order granting said motion to intervene. Defendants except to said ruling.

(Here appears signed Order permitting Benjamin Brown, Jr., et al., to Intervene and plead.)

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Thursday, Jan. 7, 1926.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

(Court and Cause.)

(E.-93—Prescott.)

This cause comes on regularly for trial this day, pursuant to recess. The following counsel are present: Francis E. Wilson, Esquire, and Samuel L. Pattee, Esquire, for the plaintiff; D. E. McLaughlin, Esquire, for the defendants A. T. Hammous, and J. S. Dodson; W. E. Ryan, Esquire, for the defendant Navajo County; Isaac Barth, Esquire, for the Interveners Apache County and George Jarvis; Henderson Stockton, Esquire, for the Interveners Benjamin Brown, Jr., National Surety Company, and Fidelity and Deposit Company of Maryland.

All parties announcing ready for trial the following proceedings are had:

D. A. Little is duly sworn as Court reporter. Plaintiff reads Bill of Complaint and makes statement of its case.

D. E. McLaughlin, Esquire, reads Answer of the defendants A. T. Hammous and J. S. Dodson. W. E. Ryan, Esquire, reads the Answer of the defendants Navajo County and George J. Schaefer. Isaac Barth makes statement of the case of the Interveners Apache County and George Jarvis.

Henderson Stockton, Esquire, reads Answer and makes statement for the Interveners Benjamin Brown, Jr., National Surety Company, and the Fidelity and Deposit Company of Maryland.

The defendants Navajo County and George J. Schaefer move for the dismissal of the complaint of the Intervenors Benjamin Brown, Jr., National Surety Company, and the Fidelity and Deposit Company of Maryland, whereupon,

IT IS ORDERED that said motion to dismiss is denied, and said defendants except to the ruling of the Court.

The defendants A. T. Hammons and J. S. Dodson join in the said motion to dismiss and except to the ruling denying the said motion.

PLAINTIFF'S CASE.

S. B. Smith is duly sworn and examined for the plaintiff.

Plaintiff's Exhibits 1 to 153 inclusive, are marked for identification.

George J. Schaefer is duly sworn and examined for the plaintiff.

Defendant's Exhibit "A" is marked for identification.

Plaintiff's Exhibits 154 to 163 are marked for identification.

Plaintiff's Exhibits Nos. 1 to 162, inclusive, are admitted in evidence and filed.

Defendant's Exhibits "B" and "C" are admitted and filed.

Time for adjournment having arrived, further trial is ORDERED recessed to 10 o'clock A. M., Friday, January 8th, 1926.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Friday, January 8, 1926.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

Respective counsel and all parties present pursuant to recess of yesterday, and proceedings of trial are now resumed.

PLAINTIFF'S CASE, Continued:

Examination of George J. Schaefer is now resumed.

Plaintiff's Exhibit No. 163 is now admitted in evidence and filed. A. T. Hammons, Defendant herein, is sworn and examined.

S. B. Smith is now recalled and examination is now had as to Apache County. Plaintiff's Exhibit No. 164 is admitted and filed.

Thereupon, the PLAINTIFF RESTS.

Defendants' original Motions to Dismiss case as to expense account warrants is now ORDERED DENIED. Exceptions entered for defendants.

Motion of the Intervenor Benjamin Brown, Jr., the National Surety Company, and the Fidelity and Deposit Company of Maryland, for Judgment in the case, is ORDERED DENIED. Exceptions entered for said Intervenor.

Motions of Intervenor Apache County to dismiss the complaint and for vacation of the restraining order is now ORDERED DENIED; exceptions entered for said Intervenor.

Motion of Navajo County to dismiss is ORDERED DENIED; exception entered for said Navajo County.

DEFENDANT'S CASE.

Miss Roberta Tandy is duly sworn and examined for the defendants.

J. S. Dodson, defendant, is duly sworn and examined.

Charles F. Oare is duly sworn and examined.

Whereupon, the hour of adjournment having arrived, further proceedings are Ordered continued to Saturday, January 9th, 1926, at 10 o'clock A. M.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Saturday, Jan. 9th, 1926.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

All parties are present and by respective counsel, whereupon, proceedings of trial are resumed, and further arguments of respective counsel are had before the Court upon the matters so presented.

Thereupon, further proceedings herein are continued to Monday, January 11th, 1926, at 10 o'clock A. M., of said day.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Monday, January 11, 1926.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

(Court and Cause.)

(E.-93—Prescott.)

All parties are present and by respective counsel, whereupon, further proceedings of trial are resumed pursuant to recess heretofore taken, and further arguments of counsel on the matters before the Court are now heard.

The defendants now call A. C. Norton, who is duly sworn and examined.

The defendant Navajo County rests.

Defendant's Exhibit "E," which is subsequently corrected to "D," is admitted in evidence and filed.

A. T. Hammons, defendant, heretofore sworn and examined, is recalled for further examination. Thereupon, the defendant A. T. Hammons and J. S. Dodson REST.

The Plaintiff recalls George J. Schaefer for further examination.

The hour of adjournment having arrived, it is ORDERED that further proceedings be continued to 9:45 A. M., Tuesday, January 12, 1926.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Tuesday, January 12, 1926.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

(Court and Cause.)

(E.-93—Prescott.)

All parties are present and by respective counsel, whereupon, further proceedings of trial are had pursuant to recess heretofore taken. Further arguments are had before the Court.

The Intervenor Apache County offers Exhibits Nos. 1 to 157, inclusive, which are admitted and filed.

IT IS ORDERED that Attorney Isaac Barth is permitted to withdraw said original exhibits upon the giving of proper receipt therefor, and to prepare and file instead certified copies thereof.

Thereupon, ALL PARTIES REST.

Arguments of Counsel for A. T. Hammons and Navajo County are now made to the Court, and the Court ORDERS that the matters stand submitted without further arguments.

ORDER allow five days and five days for filing of briefs.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Friday, February 12, 1926.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

(Court and Cause.)

(E.-93—Prescott.)

ORDER FOR DECREE.

The Court renders a decree in favor of complainant allowing a set-off of the amount of General School Warrants \$6,313.38; Salary Fund Warrants \$2,311.04; Road Fund Warrants in the sum of \$792.95; making a total of \$9,417.37, together with interest from the date of the closing of the Bank of Winslow; that the improvement bonds of the Town of Winslow in the sum of \$7,000.00 par value be returned by the defendant Hammons to the County Treasurer of Navajo County; that the amount thereof be set-off in favor of the plaintiff; making a total set-off of \$16,417.37.

A decree in favor of Apache County and against the complainant as to the Navajo County warrants pledged to Apache County prior to the 4th day of October, 1924.

A decree in favor of intervening petitioner George Jarvis, Treasurer and *Ex-officio* Tax Collector of Apache County, and the intervening petitioners Benjamin Brown, Jr., the National Surety Company, and Fidelity and Deposit Company of Maryland, for the relief prayed for in their respective intervening petitions to the extent that the said George Jarvis, Treasurer of Apache County, shall retain possession of the registered warrants pledged to it; to apply the same in the manner pro-

vided and permitted by the nature and character of the pledge and by the law of Arizona.

That the restraining order heretofore entered be dissolved.

Dated this 12th day of February, 1926.

Thereupon, IT IS ORDERED BY THE COURT that exceptions to the findings of the Court be entered on behalf of all the parties to the action.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Tuesday, Feb. 23, 1926.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

(Court and Cause.)

(E.-93—Prescott.)

On motion of D. E. McLaughlin, Esquire, appearing on behalf of defendants, it is

ORDERED that time of all defendants is hereby extended Twenty (20) days in addition to the time allowed by law within which to prepare, settle and file Bills of Exceptions herein.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Saturday, March 13, 1926.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

(Court and Cause.)

(E.-93—Prescott.)

On motion of W. E. Ryan, Esquire, IT IS ORDERED that defendants, time herein to prepare,

settle and file Bill of Exceptions is hereby extended to and including the 29th day of March, 1926.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of Saturday, March 27, 1926.)

HONORABLE F. C. JACOBS,

United States District Judge, Presiding.

(Court and Cause.) (E.-93—Prescott.)

Will. E. Ryan, Esquire, appears for the defendant Navajo County, and on motion of said counsel, IT IS ORDERED that time of the defendant is extended ten (10) days from and after the 29th day of March, 1926, within which to prepare, serve, settle and file Bill of Exceptions herein.

O. K.—E. M. W.

The United States District Court for the District of
Arizona.

United States of America,
District of Arizona,—ss.

I, C. R. McFall, Clerk of the United States District Court for the District of Arizona, do hereby certify that the above and foregoing is a true, perfect, and complete copy of Minute Entries in case No. 93—Equity (Prescott), Maryland Casualty Company, Plaintiff, vs. A. T. Hammons, et al., Defendants, for dates as follows: February 26, March 13, 21, July 6, December 5, 1925, January 6, 7, 8, 9, 11, 12, February 12, 23, March 13, and 27th, 1926, as the same appears from the original record remaining in my office.

WITNESS my hand and the seal of said Court this 10th day of April, 1926.

[Seal]

C. R. McFALL,
Clerk.

By M. R. Malcolm,
Deputy.

O. K.—E. M. W.

STATEMENT OF EVIDENCE UNDER
EQUITY RULE No. 75.

BE IT REMEMBERED that the trial of the above-entitled cause came on regularly to be heard before the Honorable F. C. Jacobs, Judge of the District Court of the United States in and for the District of Arizona, sitting without a jury, at the court rooms of said court in the Federal Building, City of Phoenix, State and District of Arizona, on this 7th day of January, 1926, at 10:00 o'clock A. M.

Francis C. Wilson, Esq., and Messrs. Curley & Pattee appearing as counsel for the plaintiff; Messrs. Sapp & McLaughlin appearing as counsel for the defendants, A. T. Hammons and J. S. Dodson; W. E. Ryan, Esq., John W. Murphy, Esq., Attorney General of the State of Arizona, and P. A. Sawyer, Esq., County Attorney of Navajo County, State of Arizona, appearing as counsel for the defendants, George J. Schaefer, and Navajo County, Isaac Barth, Esq., and Maurice Barth, Esq., County Attorney of Apache County, State of Arizona, appearing as counsel for Intervenors George Jarvis and Apache County; Messrs. Stockton & Perry and Thomas A. Flynn, Esq., appearing as counsel for

Intervenors Benjamin Brown, Jr., National Surety Company and Fidelity & Deposit Company of Maryland.

BE IT REMEMBERED ALSO that the pleadings of the parties plaintiff and original defendants were then read to the Court, and that a stipulation entitled in the cause, but not signed, was read to the Court and stipulated as true by the plaintiff and the original defendants, in words and figures as follows, to wit:

The parties in interest, through their respective attorneys and subject to such objections as may be urged as to the relevancy, materiality and competency of any of the facts hereinafter and subject to such motions to strike as might be made to include any of the facts referred to in connection with facts shown by evidence, agreed as follows:

That the first paragraph of the amended bill is true; that the allegations of paragraph II, of the amended bill is true; that the allegations of paragraph III, of the amended bill are true as of the date when the complaint was filed; agree that at the date of the suspension of the Bank of Winslow there was on deposit to the credit of Navajo County the sum of fifty-one thousand two hundred nine and 75-100 dollars (\$51,209.75), of which fifteen thousand (\$15,000.00) dollars was inactive funds which had been in the bank from prior to January 1, 1923, and the balance was active funds of said county; that the remaining allegations of paragraph IV are subject to proof except as to items of figures and amounts hereinafter specified; that the allega-

tions of paragraph V are correct in figures as to amount of warrants hereinafter stated; that it is admitted that at the time of the suspension of The Bank of Winslow the Superintendent of Banks came into possession of registered warrants of Navajo County to the amount of ten thousand nine hundred twenty-two and 44-100 (\$10,922.44) dollars; that at said date there was in the possession of the County Treasurer of Apache County the sum of eight thousand one hundred ten and 38-100 (\$8,110.38) dollars of registered warrants of Navajo County, and that on said date there was in the possession of George Schaefer, County Treasurer of Navajo County, seven thousand three hundred seventy-nine and 40-100 (\$7,379.40) dollars registered warrants of Navajo County. These amounts represent the aggregate of all of the warrants of Navajo County in dispute in this case.

The parties are left to prove as to the manner in which said warrants got into the hands of the respective counties or the respective county treasurers and the purpose for which and the conditions upon which they are held.

That at the date the Bank of Winslow closed its doors defendant George Schaefer was in possession of twelve thousand five hundred nineteen and 60-100 (\$12,519.60) dollars of improvement bonds of the *Twon* of Winslow; that on October 23, 1924, seven thousand dollars (\$7,000.00) of those bonds were returned to the Assistant Bank Examiner Dodson and five thousand five hundred nineteen and 60-100 (\$5,519.60) dollars were sold by defendant Schae-

fer; that defendant Schaefer also liquidated the registered warrants referred to as placed in his hands by The Bank of Winslow, the above seven thousand three hundred seventy-nine and 40-100 (\$7,379.40) dollars of said warrants and the proceeds of such sale and liquidation was applied on the total deposit of the county with the Bank of Winslow of above fifty-one thousand two hundred nine and 75-100 (\$51,209.75) dollars as to be a credit thereon. It is not intended by the parties hereto to stipulate as to any fact bearing upon the terms, conditions or purposes of any arrangement under which the above warrants and improvement bonds came into the possession of the Treasurer of Navajo *Count*, leaving all such matters subject to such proofs and objections thereto as may be offered on the trial.

Mr. WILSON.—Mr. Ryan calls my attention to the fact that we apparently stipulated—I do not remember just how that came up—but that these warrants, all of them came into the possession of the Bank of Winslow prior to its closing in the ordinary and usual course of business which is pursuant to the law of Arizona with reference to the handling of warrants.

TESTIMONY OF S. B. SMITH, FOR PLAINTIFF.

S. B. SMITH, who was called as a witness on behalf of the plaintiff, and being first duly sworn, testified as follows:

Direct Examination by Mr. WILSON.

I am Deputy Bank Examiner and have charge of the records of the Bank of Winslow at this time. I succeeded Mr. Dodson, former deputy in charge of the Bank of Winslow; he turned over the documents and papers of the bank when he went out. I produce the warrants which came into my hands at that time.

(Witness produces documents which are marked for identification, in numerical order, "Plaintiff's Exhibit I," etc.)

TESTIMONY OF GEORGE J. SCHAEFER, FOR PLAINTIFF.

Thereupon, Mr. GEORGE J. SCHAEFER was called as a witness for the plaintiff, and being first duly sworn, testified as follows:

I am Treasurer of Navajo County; went into office the 1st of January, 1923, and have continued as such officer ever since. As such Treasurer I had in my possession records of that county with reference to the deposits of the county in the Bank of Winslow, and other records in connection with that transaction. I produce receipts and other docu-

(Testimony of George J. Schaefer.)

ments in connection with those deposits with that bank before it closed October 4, 1924. Letter dated March 17, 1924, from the Bank of Winslow, signed B. B. Neel, is a letter transmitting \$2,839.24 of county of Navajo warrants received by me for the bank. (Letter marked for identification as Plaintiff's Exhibit.)

Mr. WILSON.—Perhaps I could go on with something else just temporarily.

Q. Mr. Schaefer, I hand you list of warrants purporting to be the warrants issued by Navajo County and registered between October 4, 1923, to October 4, 1924, as unpaid October 4, 1924, and will ask you if those lists were made in your office and if they correctly state the condition of your registration book on the subject for the period covered by them?

A. They were made in my office and I believe them to be correct.

Mr. WILSON.—If it pleases your Honor, I will ask the Clerk to mark for identification the four lists that have been identified by the witness as correct copies of his records.

The CLERK.—159.

(The other exhibits heretofore offered by plaintiff were marked from 1 to 158 inclusive.)

Mr. ISAAC BARTH.—If the Court please, I would like to ask counsel if the warrants held by Apache County are included in that list?

Mr. WILSON.—No. Some are. I will get those out later. About six, I think.

(Testimony of George J. Schaefer.)

(Thereupon, the four exhibits last offered were marked Plaintiff's Exhibits 159, 160, 161 and 162.)

Mr. WILSON.—Q. Mr. Schaefer, I hand you letter dated March 20, 1924, on the Bank of Winslow to you as County Treasurer, signed by the vice-president, and ask you if that was received by you?

A. It was.

Mr. WILSON.—Mark for identification this letter.

The CLERK.—No. 163.

Mr. WILSON.—Q. Mr. Schaefer, I hand you Plaintiff's Exhibit 162, warrants issued by Navajo County, Arizona, on the road fund registered October 4, 1923, to October 24, 1924.

The COURT.—Bonds, you say?

Mr. WILSON.—Registered warrants.

The COURT.—Warrants.

Mr. WILSON.—Yes, sir,—and will ask you if on October 4, 1924, you had sufficient money in that fund to pay those warrants?

Mr. RYAN.—Wait a minute. There is no allegation in the complaint to the contrary but what all of these—. That is already admitted that they were all registered warrants. As a matter of law, they are registered warrants until they are called by notice, which gives every registered warrant holder in the order of registration a right to payment. It is immaterial under the state of the admissions and the pleadings in this case whether he has other funds or any funds at all to pay these

(Testimony of George J. Schaefer.)

road warrants. They were registered warrants. They are in this case but registered warrants, registered, with all that the law implies and limits as to the payment of those classes of warrants.

(Arguments by Mr. WILSON and Mr. RYAN.)

The COURT.—The objection is overruled. Do you want an exception?

Mr. McLAUGHLIN.—Note an exception by Hammons and Dodson.

Mr. RYAN.—I should like to present some authorities in support of that.

The COURT.—I don't think I would care to listen to any.

Mr. RYAN.—I take an exception for the reason that—assigning the reason that it is a line of evidence that is not within the pleadings and contrary to the stipulated facts and the character of these warrants.

The COURT.—You already have that in your objection for the record.

Mr. RYAN.—What?

The COURT.—I say, you have stated the grounds of your objection already in record. Proceed, Mr. Wilson.

A. I did. It is in the road fund.

Mr. McLAUGHLIN.—If your Honor please, we urge also that the best evidence as to the funds available by the county at that time would be the books of the county themselves and the official records should be produced.

Mr. WILSON.—In answer to that, if your Honor

(Testimony of George J. Schaefer.)

please, I asked the Treasurer if he knew whether he had, as treasurer, sufficient money to pay these warrants.

The COURT.—He may answer yes or no whether he knows.

A. Yes.

Mr. WILSON.—Q. Mr. Schaefer, you did have on that date sufficient money to meet those warrants, and, if the bank had been open, you could have drawn on the bank for the amount of that total, \$1,861.60?

A. That is, on the road fund?

Q. On the road fund.

A. Yes, sir.

Q. I now hand you Plaintiff's Exhibit for identification marked 160 and will ask you if on the 4th day of October, 1924, you had sufficient funds in the salary fund to take up all of the warrants listed upon that list?

Mr. RYAN.—Same objection, if your Honor please, as to the books being the best evidence and irrelevant, incompetent and immaterial for the reason urged.

The COURT.—Objection is overruled.

Mr. RYAN.—Note an exception.

Mr. McLAUGHLIN.—Exception on behalf of Hammons and Dodson.

A. I did.

Mr. WILSON.—Q. If the Bank of Winslow, on the 4th day of October, 1924, had been open and transacting business, could you have drawn upon

(Testimony of George J. Schaefer.)

that bank a check in payment of those warrants in the sum of \$4,469.58?

A. I could.

Mr. WILSON.—He said yes, sir. Q. Mr. Schaefer, I hand you Plaintiff's Exhibit No. 161, marked for identification and will ask you if you had on hand on October 4, 1924, sufficient funds to pay all of the outstanding school warrants at that date registered and these included in this list?

A. Yes, I did.

Mr. WILSON.—I now offer in evidence—

Mr. RYAN.—May it be understood your Honor, that the same objection goes to these as before, so that I won't have to object.

The COURT.—Yes, and the same ruling.

Mr. RYAN.—Save an exception.

Mr. McLAUGHLIN.—Of all the defendants.

Mr. WILSON.—I now offer in evidence school warrants introduced as Plaintiff's Exhibit 1 to 24.

The COURT.—Inclusive?

Mr. WILSON.—Inclusive. This is the road fund warrants marked Plaintiff's 25 to 44 inclusive and expense warrants marked 43; Plaintiff's Exhibits 43 to 95 inclusive.

The CLERK.—45 to 95.

Mr. WILSON.—45 to 95. Pardon me. Plaintiff's Exhibits from 96 to 153.

The COURT.—What is that?

Mr. WILSON.—Inclusive.

The COURT.—Expense warrants?

Mr. WILSON.—The 45 to 95 were expense warrants. 96 to 153 were salary warrants.

The COURT.—On the road.

Mr. WILSON.—Yes, sir.

The COURT.—That is the road?

Mr. WILSON.—And the road warrants were from 25 to 44 inclusive. School warrants were from 1 to 24 inclusive.

The COURT.—What are the others?

Mr. WILSON.—Expense warrants were from 45 to 95 inclusive and the salary warrants were from 96 to 153 inclusive.

The COURT.—Any objections?

Mr. RYAN.—Is he offering them now in evidence?

Mr. WILSON.—I am offering them now in evidence.

Mr. RYAN.—I would like to have the privilege of looking at them, so that I can make my objection.

The COURT.—Didn't you folks see those warrants during the recess?

Mr. RYAN.—We did not.

Mr. WILSON.—*The* have been in your possession all of the time, Mr. Ryan.

Mr. RYAN.—Warrants? Not these.

Mr. WILSON.—Your witness—your client.

Mr. ISAAC BARTH.—They were being marked by the Clerk.

Mr. RYAN.—I mean the list you are offering in evidence.

Mr. WILSON.—I am not offering the list yet, just these warrants.

(Exhibits handed to counsel for defendants.)

The COURT.—What is the total amount of all those bonds? Can you tell?

Mr. WILSON.—Total of those pledged to the county?

The COURT.—Well, those that the witness has testified he had funds to pay at that time.

Mr. WILSON.—There are twenty—possibly twenty-three thousand—just about twenty-three thousand dollars of warrants.

Mr. ISAAC BARTH.—The witness indicates that that is not correct.

Mr. WILSON.—Well, that does not include the bonds—I guess I misunderstood your Honor. Those that he said he had money to pay that you want?

The COURT.—Yes, sir.

Mr. WILSON.—\$17,203.75 not including interest.

The COURT.—Well, is there any objection to the introduction of those warrants?

Mr. RYAN.—Same objection that goes to the line of proof. It opens up a different question—any question connected with the ability to pay those warrants.

The COURT.—Your objection is overruled.

Mr. McLAUGHLIN.—Which objection is joined in by all the defendants and exception noted on behalf of all of them.

(Testimony of George J. Schaefer.)

Mr. RYAN.—Exception requested, your Honor.

Mr. WILSON.—I now offer in evidence plaintiff's—the last number on that was Plaintiff's Exhibit marked for identification 154. I would like to read it to your Honor.

Mr. McLAUGHLIN.—May we see that before it is read, Mr. Wilson, so we can interpose an objection, if necessary?

(Exhibit handed to counsel for defendants.)

Mr. RYAN.—The objection to this receipt is that under date of April 23d, it appears to be something signed by Mr. George J. Schaefer that he received from the Arizona State Bank of Winslow, thirty-five improvement bonds of the Town of Winslow and there is no showing that The Bank of Winslow that is now defunct had any connection or interest in those bonds or with that deposit.

Mr. WILSON.—I will now show that connection. I did not suppose that counsel would question the fact that the Bank of Arizona was merged with the Winslow State Bank before this transaction—before it closed and all these assets and everything else went into The Bank of Winslow. If they are going to ask me to prove it, I will go ahead and prove it. That will just take a few questions, if your Honor please, to try to get that in.

Q. Mr. Schaefer, I hand you Plaintiff's Exhibit No. 154 marked for identification—I will withdraw that offer at this time, Mr. Reporter—and will ask you how that came into your possession?

(Testimony of George J. Schaefer.)

A. Came to me from the Arizona State Bank on receipt of that many bonds as noted there.

Q. And what happened thereafter with the deposit of that bank as shown by your books?

Mr. RYAN.—The books are the best evidence, your Honor, as to that.

Mr. WILSON.—Well, take out your books.

Mr. RYAN.—I move to have the answer stricken out.

The COURT.—There is no answer to the question.

Mr. RYAN.—What?

The COURT.—He has not answered the question.

Mr. RYAN.—I thought he had answered it.

Mr. WILSON.—Q. I will ask you to state from your book that you have just taken from your files what your books show in that connection?

A. In regard to the title of the bank?

Q. Did you carry an account with the Bank of Arizona? A. Arizona State Bank.

Q. Arizona State Bank at the time that this receipt was given, April 23, 1923? A. I did.

Q. Will you state what the amount was as shown by your books? A. At that time?

Q. Yes. A. My ledger don't go back that far.

Q. Will you state what occurred to that account as shown by your books?

A. That account was transferred to the Bank of Winslow after the merger.

The COURT.—I can't hear you.

Mr. RYAN.—Wait a minute.

(Testimony of George J. Schaefer.)

A. The account was transferred to The Bank of Winslow after the merger in May, 1924.

Mr. WILSON.—That is shown by your ledger account of Arizona State Bank? A. Yes, sir.

Q. What was the balance as shown by your books at the time of the transfer to The Bank of Winslow?

A. \$17,927.19.

Q. What date was that?

A. September 1.

Q. What year? A. 1924.

Q. Did you continue to hold these bonds after that date as security for—

Mr. RYAN.—Well—

Mr. WILSON.—Well, never mind.

Q. You continued to hold these bonds after that, Mr. Schaefer? A. I did.

Q. Did the Bank of Winslow ever raise any objection to your holding them during the time that it was open? A. None.

Mr. McLAUGHLIN.—Now, if your Honor please, we object to that and move to strike the answer on the ground that there is no showing in the evidence as yet that the Bank of Winslow had any right to object to something that somebody else had put up to secure somebody else's liability.

The COURT.—*The* were transferred from the—

Mr. McLAUGHLIN.—There is no showing that *that* these bonds were ever transferred to the Bank of Winslow or that the Bank of Winslow got them.

The COURT.—He just testified that the whole

(Testimony of George J. Schaefer.)

account of the bonds were transferred in the merger.

Mr. McLAUGHLIN.—I believe, your Honor, that the witness inadvertently, perhaps, used the word “merger” but there is no evidence that these bonds were ever merged. What he testified to was that the account was afterwards transferred to the Bank of Winslow. That is what he said. Now, the account being transferred, does not necessarily transfer these bonds.

Mr. WILSON.—If the Court please, they were negotiable bonds, as shown by the character of them, and he held them and continued to hold them. Of course, we can prove the merger, if the Court please, by simply putting Mr. Hammons on the witness stand, if counsel wants to take the Court’s time and our time to prove that merger.

The COURT.—It is just a question of orderly proof. The objection is overruled.

Mr. McLAUGHLIN.—Note an exception. We are perfectly willing for counsel to prove anything that he deems necessary and we are not waiving anything in that line.

A. Plaintiff’s Exhibit 154, marked for identification, came to me from the Arizona State Bank on receipt of that many bonds as noted there.

Mr. WILSON.—I will now offer in evidence Plaintiff’s Exhibit No. 154.

Mr. RYAN.—No further objections to it except those already noted.

Mr. WILSON.—No further objections?

(Testimony of George J. Schaefer.)

The COURT.—No further objection.

Mr. WILSON.—I now offer in evidence Plaintiff's Exhibit No. 155 as Plaintiff's Exhibit No. 155.

Mr. RYAN.—As far as I understand, there is no showing that any of the warrants involved in this case are the warrants involved—described in this so-called receipt and the further objection that any receipt given by Mr. Schaefer creating a—accepting securities of any kind as a guarantee is without authority of law, which can only come from the Board of Supervisors and also that it shows other securities which were given at the same time.

Mr. WILSON.—If the Court please, this is crossed off, the other securities he refers to.

The COURT.—The objection is overruled.

Mr. RYAN.—Exception.

Mr. McLAUGHLIN.—I would like the record to show that the objection was concurred in by the other defendants Hammons and Dodson and an exception taken in their behalf.

Mr. WILSON.—I now offer in evidence Plaintiff's Exhibit No. 156, being the receipt by the County Treasurer of certain warrants.

Mr. RYAN.—Same objection.

Mr. McLAUGHLIN.—By all the defendants.

Mr. RYAN.—Same objections, *with* enumerating them.

Mr. WILSON.—That is another receipt of the same character.

The COURT.—The objection is overruled.

(Testimony of George J. Schaefer.)

Mr. McLAUGHLIN.—Exception by all defendants.

Mr. WILSON.—I now offer in evidence Plaintiff's Exhibit No. 157, being the letter from George J. Schaefer to Charles F. Oare, Cashier of the Arizona State Bank, acknowledging receipt of \$2,583.37 in registered county warrants. I think before I offer that, I will go a little further.

Q. I hand you, Mr. Schaefer—I withdraw that offer—a letter dated October 18, 1923, and will ask you whether you held those warrants as security for the Arizona State Bank funds transferred to the Bank of Winslow, as you have already testified, at the time that the Bank of Winslow closed its doors on October 4, 1924?

A. I did.

Mr. RYAN.—Same objection.

Mr. WILSON.—I now offer in evidence Plaintiff's Exhibit No. 157, being the letter referred to by the witness.

Mr. RYAN.—That is the same objection that these securities were put up to the Arizona State Bank, no showing that there was any connection between the two.

The COURT.—Objection overruled.

Mr. McLAUGHLIN.—Objection was concurred in by all defendants and we note an exception.

Mr. WILSON.—I now offer in evidence Plaintiff's Exhibit No. 158, being a letter dated March 17, 1924, signed by V. B. Neil (?), Vice-President of the Bank of Winslow, addressed to Mr. Schaefer

as Treasurer, in which he acknowledges receipt of registered warrants as per list enclosed aggregating \$2,839.24 as in aggregate of county funds deposited in the Bank of Winslow. I might state that the offer of this letter is limited to the proof that the Bank of Winslow did not limit the pledge of this collateral, as alleged by the other side, and deposited them as collateral for the entire funds of the county in that bank.

Mr. RYAN.—Same objection that I interposed.

The COURT.—What is the letter? Read it.

Mr. WILSON.—The letter says: “Mr. George Schaefer, Treasurer, Holbrook, Arizona. We are enclosing herewith registered warrants as per list enclosed aggregating \$2,839.24. These, you will kindly hold as a guarantee of county funds deposited in the Bank of Winslow and return to us Panama Canal Bond for \$1,000.00. Also kindly sign the enclosed receipt and hold the copy for your records.”

The COURT.—I see. The Panama Canal bond was supposed to have been delivered on the other.

Mr. WILSON.—Yes, sir, and was returned as shown by the letter already in evidence.

The COURT.—The objection is overruled.

Mr. RYAN.—Note an exception for the—

Mr. McLAUGHLIN.— —for all defendants.

Mr. WILSON.—I now offer in evidence Plaintiff's Exhibit 160 being a list of warrants issued by Navajo County on the salary fund to which the witness has already testified as Plaintiff's Exhibit 160.

Mr. RYAN.—Same objection as to that entire line of proof, that it is incompetent, irrelevant and immaterial.

The COURT.—What are those?

Mr. WILSON.—Those are the warrants to which the witness testified that it represents a correct list of those in his office and that he had funds on hand to pay for and would draw upon the bank for the payment.

The COURT.—Objection is overruled.

Mr. WILSON.—I offer in evidence Plaintiff's Exhibit 161, being warrants issued by the County Superintendent of Schools on the school fund of Navajo County, Arizona, as previously identified by the witness.

Mr. RYAN.—Same objection that I am making to this same line of proof.

The COURT.—Objection is overruled.

Mr. McLAUGHLIN.—Note an exception for all of the original defendants in the case.

Mr. WILSON.—I now offer in evidence Plaintiff's Exhibit No. 162, being a list of warrants issued by Navajo County on the road fund heretofore identified by the witness.

Mr. RYAN.—Same objection that I am making to this class of testimony.

The COURT.—Same ruling. It is overruled.

Mr. RYAN.—Note an exception for all of the defendants.

Mr. WILSON.—I now offer in evidence Plaintiff's Exhibits No. 159, which I offer as subject to

the general rule of the general laws of Arizona on the subject of set-off, it not being covered by the character of proof which I have adduced in connection with the three preceding exhibits.

The COURT.—What is it?

Mr. WILSON.—That is warrants on the expense fund amounting to \$6,636.12.

The COURT.—Same objection, I presume?

Mr. RYAN.—Incompetent, irrelevant and immaterial, subject to the same objection as I am interposing to this line of proof.

The COURT.—The objection is overruled.

Mr. McLAUGHLIN.—And, if your Honor pleases, we further object that these are not the original records and not the best evidence—these lists.

Mr. WILSON.—He has identified them as correct copies of his records. Counsel agreed with me yesterday that they would go in if that proof was made.

Mr. RYAN.—Just a minute, if your Honor please. I made some agreements yesterday and orally in the proof—orally in the trial of this case outside of this written stipulation that is already in, I tried to hold counsel to it to put in certain things. He has, aside from what is already in the record as valid and binding admissions, he has departed from them. He has opened up a new channel.

Mr. WILSON.—To the extent of asking that these warrants be marked exhibits.

Mr. RYAN.—Now, as far as I am concerned, I

do not feel that I am morally bound by any verbal stipulation not already in the record nor beyond what has been read into the record and consented to by me. I don't believe I am.

The COURT.—I don't know anything about your stipulation of your agreement. What is the objection; that it is not the best evidence?

Mr. WILSON.—That is the objection and the witness has testified that this is the correct copy of his records. I will put the records all in and then he can check them, if it would please counsel any. I don't see the extent, though. It seems to me that the record is sufficient.

The COURT.—Do you know whether or not it is correct or not?

Mr. RYAN.—If your Honor please, I have tried to get this County Treasurer, who, as an officer of Navajo County, is one of my clients from last September to give me information to prepare for this case and I find him more willing on the witness stand to give everything to the plaintiff in the case and not one single thing to the Receiver, the Bank Examiner or to the Attorney General or myself in regard to it.

The COURT.—That is not the question I asked you.

Mr. RYAN.—I don't know anything to be exact, your Honor. I don't know, and I have not been able to find out from this Treasurer from way along last September.

(Testimony of George J. Schaefer.)

The COURT.—Didn't I understand a moment ago from counsel that you had an oral understanding yesterday as to the—

Mr. WILSON.—Yes, sir, that was counsel's statement. Now, he says—

Mr. RYAN.—As to certain features of it.

Mr. WILSON.—Now, he says, because I asked to have these warrants marked as Exhibits and introduced them as such that I have breached some agreement with him. I don't remember that I made any agreement that I would not do that but the agreement was and he has already verified that fact that these lists would be taken as correct statements of the contents of Mr. Schaefer's books and would be put in as such so as to prevent me having to spend two days checking every one of these warrants—checking them off and introducing them.

The COURT.—Q. Have you checked that from your books, Mr. Schaefer?

A. Yes, about a year ago, though.

Mr. WILSON—I checked them very carefully, if the Court please. I myself went over and examined these records.

The COURT.—The objection is overruled.

Mr. McLAUGHLIN.—Note an exception on behalf of all defendants.

The COURT.—That is 159?

Mr. WILSON.—Yes, sir, that is 159.

Mr. RYAN.—An exception.

Mr. WILSON.—That is all, if the Court please, as far as this witness is concerned.

(Testimony of George J. Schaefer.)

Cross-examination by Mr. ISAAC BARTH,
Attorney for George Jarvis and County of Apache,
Intervenors.

Q. Mr. Schaefer, you testified that you had money on hand to pay these warrants—you had funds on hand to pay these warrants?

A. These particular amounts.

Q. That is, not these particular warrants, but this amount? A. Yes. That is about all there was.

Q. By that, you mean that if these had been presented, you would have had money to have paid these off—if somebody else had presented that amount of warrants?

A. No, I had an agreement with the bank that I would take these warrants that they held immediately after the Board meeting on the 6th of October, after I made my report to the Board of Supervisors.

Q. That is, you agreed with them that you would take these?

A. Purchase all of the registered warrants they held in certain accounts.

Q. That you would take the bank's warrants?

A. Yes, sir.

Q. Regardless of the fact that other warrants were registered ahead of those warrants?

A. There was none.

Q. There was none others registered ahead?

A. That is all on these particular funds. The expense fund, of course, that is another fund. I did not have any money in the expense fund at all.

(Testimony of George J. Schaefer.)

Q. Did you have just the money in the general fund to pay them with? A. No.

Q. It had been distributed to the respective funds on which these warrants were drawn?

A. That is, as far as the account is concerned.

Q. As far as what?

A. The account is concerned.

Q. It had not been authorized by the Board—

* * * *

Mr. BARTH.—I was under the impression and I was somewhat perturbed by a remark as to the stipulation relative to my procedure, but I am glad at least that the Court is with me. What did I ask the last?

The REPORTER.—(Reading:) “It had not been authorized by the Board—”

Mr. BARTH.—Q. —that is, there had been no apportionment of these respective funds of the money that you held?

A. There had been at that time, the last of September.

Q. Was there enough money in the salary fund in your possession at that time to pay all outstanding registered warrants? A. No.

Q. Was there sufficient money in the road fund at that time to pay all outstanding warrants?

A. Yes.

Q. Was there enough money in the school fund of the respective school districts to pay outstanding school warrants? A. Yes.

(Testimony of George J. Schaefer.)

Q. All of them? What was true of the other funds? A. They were short.

Q. All of the others? Then, there was only money enough to pay the money in what funds?

A. There was enough to pay all road warrants, all school warrants and part of the salary—most all of the salary warrants but not quite all—\$5,000.00 worth of them.

The COURT.—Q. How about the expense?

A. That fund had never had any money in it.

Q. How many funds have you outside of the school funds?

A. Just the general accounts? Not district accounts?

Q. Outside of the district accounts is what I mean.

A. I have school, road, salary and expense funds is about all. Those are the big funds that amount to anything.

Q. You had money enough only to pay the—that is, the—will you read it, so that I won't misquote?

A. I told the Bank of Winslow I would take all of the road warrants.

Q. No, not what you told the bank but what you had.

A. I had sufficient money to buy all road warrants, all school warrants and \$5,000.00 of salary warrants and no money for expense warrants.

Q. That is all, that is, you mean by that that you had enough money in those funds to pay all outstanding warrants against those particular funds?

A. That is it.

(Testimony of George J. Schaefer.)

Mr. RYAN.—Q. And, did you tell him that?

A. At that time.

Q. Well, what time?

A. Somewhere about the first of October.

The COURT.—Q. Is that \$5,000.00 of salary warrants?

A. Yes, sir.

* * * *

Cross-examination by Mr. RYAN.

Q. Mr. Schaefer, between the 1st and the 4th of October, 1924, you registered some \$5,000.00 worth of warrants for the Bank of Winslow, did you not?

A. Yes, sir. I don't know now. I registered some, but I don't know how many.

Q. Isn't it a fact, to your knowledge, that you registered all of the warrants described in the complaint as being warrants in transit except one of about seven hundred and some odd that was being—

A. I don't know about the transit warrants.

Q. You registered some \$5,000.00 between the 1st and the 4th, didn't you?

A. If you would let me see that, I can give a better idea between that and the books, that is, to—

Q. Wait a minute. You don't remember independently? Don't you know that there was many thousand dollars of warrants registered and outstanding other than those held by the Bank of Winslow on the 14th day of October, 19—

A. Yes, sir.

(Testimony of George J. Schaefer.)

Mr. WILSON.—If the Court please, I object to this line of testimony, because there is no question in the record on that point, we having stipulated that these are all registered warrants and it is immaterial when they were registered. They were all registered warrants and we have stipulated that fact and any testimony on that point before this court is wasting the court's time and our time and I object to it as immaterial.

Mr. RYAN.—That these are all registered warrants, yes?

Mr. WILSON.—Yes.

Mr. RYAN.—But I have made a defense in my pleadings to the effect that there were other large—a large number of other outstanding registered warrants on these same funds on the 4th of October.

Q. Now, that is correct, is it not? A. Yes, sir.

The COURT.—The objection is overruled. He may answer.

Mr. RYAN.—Q. And it is a fact that a large number of these same warrants were still outstanding about the 1st of July, 1925?

A. Which ones?

Q. Well, of the same registered warrants that were registered and outstanding on October 4, 1924?

A. Yes.

Mr. WILSON.—Objected to as immaterial, if the Court please. I can't see the materiality.

Mr. RYAN.—Now, the date—

Mr. WILSON.—Just a minute, please, Mr. Ryan.

The date is material if it was October 4, 1924. What happened later than that is immaterial. He did not pay these warrans. They must have been outstanding, because he was enjoined from paying them.

The COURT.—I did not hear the date embodied in your question.

Mr. WILSON.—July 1, 1925.

The COURT.—How is that material—1925—what was outstanding in 1925?

Mr. RYAN.—They are asking that their particular registered warrants should be paid. He is saying that he had funds to pay some. That is his idea.

The COURT.—You have already proved by him that there were others outstanding?

Mr. RYAN.—Yes.

The COURT.—What difference does it make whether they were outstanding a year later or not?

Mr. RYAN.—Possibly it does not.

Mr. McLAUGHLIN.—If your Honor please, for the purpose of cross-examination, I think it is material to show that these warrants were not taken up at the time that this man said that they had the funds for that purpose and to the contrary nearly a year later these warrants were still outstanding as registered warrants and unpaid—not called.

The COURT.—This testimony does not go to school or road warrants? You are not questioning him in reference to the school warrants or the road warrants, are you?

(Testimony of George J. Schaefer.)

Mr. RYAN.—I am questioning him generally as to the outstanding warrants of Navajo County registered at that time.

The COURT.—You are confusing me with your question. Designate what warrants you refer to. You see, this witness has testified that there were funds to take care of all of the road and school warrants outstanding at that time.

(Witness continued as follows:) On October 4, 1924, I had funds sufficient to take care of all of the road and school warrants of Navajo County then outstanding—all of the registered warrants. I have the warrant register covering that full period from the year October 1, 1923, to October, 1924. I do not think there were other school warrants outstanding besides those held by the Holbrook Bank—outstanding registered school warrants.

Q. The books will show that, won't they?

A. Sure they will show.

Q. What?

A. They will show. Yes, there was.

Q. What? A. There was.

Q. And, on October 3, 1924, you registered school warrants, did you not, for the Bank of Winslow?

A. I did.

Q. Yes, sir. Now, if you had sufficient money in your hands to pay all of the school warrants, why did you register some more on that day?

A. Because I was buying up the oldest ones that were out and re-registering them.

(Testimony of George J. Schaefer.)

Q. Buying up the oldest ones that were out and re-registering?

A. If you want me to tell you how it happened, I will.

Q. I would like to know how you handled that situation.

A. I had an agreement with the Bank of Winslow on all of the collateral that whenever they were in—I wanted to get rid of collateral I would take it back whenever I could. I told them I would take these certain warrants and, in buying the warrants, I bought the oldest, because all of the old ones were in the hands of the Bank of Winslow and its branches at Holbrook and I bought those and registered—kept on registering. I never stopped but I had money collected during the month of September that enabled me to buy better than \$12,000.00 worth of school warrants. I kept on registering but bought the old ones with the monies that the account was replenished with.

Q. Just what was your system of re-registering?

A. I guess I was wrong. I kept on registering. I bought the old registered warrants.

The COURT.—Q. You were not re-registering warrants that you had purchased?

A. No, that was a mistake of mine.

Mr. RYAN.—Q. Have you any of the warrants in your files here of the class that you say that you re-registered—purchased the old ones and re-registered the new ones—have you?

A. I haven't any warrants.

(Testimony of George J. Schaefer.)

Q. How? A. I haven't any warrants.

Q. You did not bring any with you?

A. Those warrants are not in my possession. I turned those over to the Board of Supervisors every month.

Q. Now, isn't it a fact that the Bank of Winslow, through your co-operation with the officers, that you would take a bunch of miscellaneous warrants and you would make from school funds entirely new warrants? A. I don't quite understand.

Q. Didn't you make a new warrant for a bunch of miscellaneous little warrants? A. Never.

Q. Never at all?

A. No. I wish I could. I would like that arrangement.

Q. Can you find in that bunch of warrants the warrant that goes with that particular deposit?

A. That is not a warrant. That is a voucher.

Q. Well, a voucher.

A. I would not know anything about it.

Q. A voucher at the Bank of Winslow?

A. I don't know who it is to. It is from the Bank of Winslow to the County Superintendent of Schools for payment.

Q. Now as a matter of fact, on the strength of that, there was a new warrant issued? A. Yes.

Q. Paid her a new warrant? A. By her.

Q. By her? A. Yes.

Q. And that is one of the registered warrants?

A. I don't know.

Q. It was not issued on the claim?

(Testimony of George J. Schaefer.)

A. It all depends what district it was on.

Q. Didn't that take up a number of smaller warrants? A. That is not a warrant.

Mr. RYAN.—Q. You were asked by the plaintiff's attorney to produce the receipts of papers—books that you had pertaining to this Bank of Winslow account, were you not?

A. Yes.

Q. Now, you did produce for him this paper which you have in your hand, did you not, and gave it to him to-day in court?

A. Well, I am not sure whether that was in it but I think it was. Everything I had.

Q. Everything you had. Now, that is a communication that you received pertaining to some of these warrants? A. Yes.

Q. Of date October 10, 1923? A. It is.

Q. And some of the warrants pertain to one of the lists of warrants that the plaintiff is presenting and you testified about, is it not?

The COURT.—Speak up loud.

A. That was held at the time of closing.

Mr. RYAN.—I will offer this. Mark for identification.

The COURT.—Defendant's exhibit— What is it?

The CLERK—B.

The COURT.—For identification.

Mr. RYAN.—It should be C, I think.

The CLERK.—No.

(Testimony of George J. Schaefer.)

Mr. RYAN.—We had a letter and a copy of a letter and this is the original.

The CLERK.—That was one item. Defendant's Exhibit "A." Defendant's Exhibit "B," this is.

Mr. RYAN.—Q. This yellow paper attached, is that your copy of the—not communication—isn't that a copy of your letter in answer to the letter of October 10, 1923?

A. Let me read it. Yes, it is.

Mr. RYAN.—I will now offer this.

The CLERK.—Do you want that as B and C is what I am trying to find out.

The COURT.—Submit it to counsel.

The CLERK.—Are these for identification, B and C, so as to keep the record straight?

The COURT.—Two of them, B and C.

Mr. RYAN.—Just having that marked for identification so that I could submit them to argument.

Mr. WILSON.—That is all right. Go ahead.

Mr. RYAN.—No objections?

Mr. WILSON.—No objections.

The COURT.—They may be admitted in evidence.

Mr. RYAN.—May I read it into the record at this time, if your Honor please? "Arizona State Bank, Winslow, Arizona, October 10, 1923, George J. Schaefer, County Treasurer, Holbrook, Arizona. Dear George. As per our agreement a few days ago, I am enclosing herewith registered warrants to the amount of \$2,583.37 to be held by you as security on an additional deposit of county funds.

(Testimony of George J. Schaefer.)

Hoping you will find the same correct, I am, very respectfully, Charles, F. Oare, Cashier." And your reply to that: "Charles F. Oare, Cashier, Arizona State Bank, Winslow, Arizona. Dear Charlie: This is to acknowledge receipt of \$2,583.37 in registered County warrants mailed to this office as security on County deposits in your bank. Hoping I may see my way clear to sweeten my deposit in the next few days, I am, yours truly, George J. Schaefer." Now, what, Mr. Schaefer, was the conversation of a few days before that you referred to with respect to making additional deposits?

A. As far as I remember, I had went up there—happened to be in Winslow and I told him he was short of collateral and to please mail me what registered warrants he had.

Q. Isn't it a fact that this extra security was to secure the additional deposits which he was making?

A. No, sir.

Q. Why does he so say then and you acknowledge it?

A. I didn't acknowledge that. Not in that manner.

* * * *

Q. They amounted to about \$14,000.00 of value, did they not? A. Yes, sir.

Q. Now, those were Town of Winslow improvement bonds. Those are the same bonds that appear in one of these—this other exhibit listing?

A. I feel sure that that is what they were. Right previous to that they had some surety which was

(Testimony of George J. Schaefer.)

cancelled and replaced and I am not sure about the list.

Q. Now, on October 9, 1923, what was your deposit with the Arizona State Bank?

* * * *

A. (Witness refers to records.) The report sheet of my record has been transferred for that month. It is not in this ledger. It is at home.

Mr. RYAN.—Q. So you haven't any record here of that amount?

A. I would say approximately \$17,000.00, because I know the account that I was running.

Q. Now, on October 10, 1923, was there any depositary bond given by the Arizona State Bank of Winslow to the County of Navajo that you know of?

A. Not given of that date. I had one previous to that date.

Q. For how much? A. \$10,000.00.

Q. That was to the Arizona State Bank?

A. That was.

Q. Now, can you turn to your books—What day do you say that the Arizona State Bank account was transferred on your books to the Bank of Winslow?

A. It was transferred from the old name on September 1, that is, on my records, and some time during August, on the bankrupts.

Q. Of what year? A. 1924.

Q. August, 1924. Can you show what the amount of your deposit with the Arizona State Bank was at that same date, August, 1924?

Mr. WILSON.—That is in the record, Mr. Ryan.

(Testimony of George J. Schaefer.)

Mr. RYAN.—What?

A. \$17,927.19. That balance was like that for about three months.

Q. The Arizona State Bank, seventeen thousand?

A. Yes.

Q. Could that amount—

Mr. WILSON.—It is already in, Mr. Ryan.

Mr. RYAN.—Q. Now, Mr. Schaefer, will you turn to your account with the Bank of Winslow, this insolvent bank of which Mr. Hammons is Superintendent of Banks in charge, and show what the amount of your deposit in that bank was at that time?

A. \$51,209.75. That is both active and inactive.

Q. That was at the time on the same date that you transferred the account of the Arizona State Bank?

A. No. I thought you meant deposits.

Q. No, I meant at this date in August when you transferred.

A. On what date? September 1, transferred? I have the Holbrook branch \$8,642.25 and then the Winslow branch \$14,876.09 and \$15,000.00 in C. D.'s at Holbrook.

Q. \$15,000.00 in C. D.'s at Holbrook. I think you testified that this same \$14,000.00 approximately, of Winslow—Town of Winslow improvement bonds and some of these same registered warrants that were turned over by the Arizona State Bank are still in existence, that is, you still have or still had?

A. No, I liquidated all of those.

Q. You liquidated all of these? A. Yes.

(Testimony of George J. Schaefer.)

Q. When?

A. After the closing of the bank. That is part of the \$7,300.00.

Q. That is part of the \$7,300.00 that you liquidated? A. Yes.

Q. Now, at the time that you held these registered warrants of the Arizona State Bank and these \$14,000.00 of improvement bonds of the Town of Winslow to secure the old account of sixteen or seventeen thousand dollars you had depositary bonds of the Maryland Casualty Company to an amount of \$40,000.00, did you?

A. That is, in another bank at that time.

Q. What?

A. I am speaking about the defunct bank now, the Bank of Winslow.

Mr. WILSON.—On what date?

Mr. RYAN—On the same date that he says that he transferred—

A. Yes, I had the \$40,000.00 that were set forth there.

Q. What?

A. With the town improvement bonds, the \$40,000.00 and the warrants.

Q. You had \$40,000.00 of depositary bonds?

A. Yes.

Q. In favor of the County of Navajo?

A. Yes.

Q. To secure its deposit with the different branches of the Bank of Winslow, did you not, at that time?

(Testimony of George J. Schaefer.)

A. Yes.

Q. And that situation has continued with respect to that—those depositary bonds and the improvements bonds down to the time this bank closed in October, 1924? A. I did.

Q. No new arrangement made about it?

A. None.

Cross-examination by Mr. RYAN.

I had County funds of Navajo County on the 4th of October, 1924, in two Winslow banks, one Holbrook bank and six New York banks. The funds to pay school warrants, salary warrants and road warrants were in no particular bank. I would draw on most any of them. The account was general. I had the money somewhere in my custody, provided the banks paid the checks, with which to pay certain warrants. It is my custom to draw a check on a certain bank for the amount of the warrant or warrants that I take up.

Q. And the checks necessary to have taken up these school warrants and road warrants and expense warrants and salary warrants that is in controversy here, you know you had funds somewhere but you don't know in what particular bank you had it, do you?

A. I know where I would have drawn the check—on what bank.

Q. You know where you would have drawn it?

A. If I had—those bonds—warrants from the Bank of Winslow, I would have drew on the Bank

(Testimony of George J. Schaefer.)

of Winslow at the same time and *and* automatically decreasing the deposit along with the collateral.

Q. But you did not draw the check?

A. No, I did not.

Q. The warrants were not presented to you so that you would draw a check from the 1st to the 4th of October, were they? A. No.

Q. And other warrants that were presented, you registered? A. I did.

Q. And isn't it a fact and don't your books so show that the authority of the Board of Supervisors to check up these registered warrants was given later in October along about the 31st of October or the 1st of November?

A. Well, I don't know about the 1st.

The COURT.—1924?

Mr. RYAN.—Of '24. The week or ten days and thirty days after the failure. Well, the Board of Supervisors did set in October with respect to using—transferring funds to take up the expense warrants, did they not? Look on your register there at the expense and salary warrants?

(Witness refers to his books.)

Mr. RYAN.—I withdraw the question, then, for further—

Q. Now, Mr. Schaefer, will you point out to the Court any record that you have showing that you had available in the Bank of Winslow on the 3d day of October enough to pay any particular school warrants?

(Testimony of George J. Schaefer.)

Mr. WILSON.—Objected to as reiteration, because the witness has testified time and again that he did have the money there and that he would have paid the warrants.

The COURT.—The objection is overruled, and he may point it out.

Mr. WILSON.—Exception.

Mr. RYAN.—Assuming that he was testifying from what was in his books.

A. All right, you want me to show you?

Q. I want you to point out the items and show where you had any—in the general school fund, for instance—take the general school warrant fund.

A. All right, sir, I had available in the general fund outside of the districts at that time a credit of \$10,079.20.

Q. That was to the general school fund. How much of that \$10,000.00 was in the Bank of Winslow? Is there anything on the books to show it?

A. No, the records don't read that way. It is a general account.

The COURT.—Q. You mean a general deposit?

A. To make it plain, I would have drawn on the Bank of Winslow for every warrant I would have purchased at that time.

Mr. RYAN.—Q. You would have drawn then, under your practice, whether the fund in the Bank of Winslow was there available for the purpose of paying school warrants or not, wouldn't you?

Mr. WILSON.—If the Court please, I am going to object to this line of testimony, because counsel knows that these accounts are general; that they are not divided in the banks; that all of the funds are merged into one fund as far as the bank account is concerned under a general deposit.

The COURT.—Under a general deposit?

Mr. WILSON.—And that is the way the statute contemplates it and counsel knows it.

The COURT.—The only thing that the Court is concerned in was the amount of deposits in the Bank of Winslow at that time.

Mr. RYAN.—I am trying to urge to the Court that it is immaterial how much money there might have been in the Bank of Winslow to the credit of Navajo County. That credit is not subject to payment of any school warrant, or any expense warrant or any salary warrant and it would be improper for the Treasurer to draw any one of those classes of warrants against that fund there unless his account as he keeps it with those separate funds shows that there is available distinct funds in the general fund.

The COURT.—Do you contend that he should have had a deposit in the Bank of Winslow of certain moneys to the credit of the school fund, certain moneys to the credit of the road fund—

Mr. RYAN.—Not necessarily but on his own books somewhere. It would be improper for him to draw funds against the Bank of Winslow unless he had school funds—showed by his books to

(Testimony of George J. Schaefer.)

be a credit of that deposit there and it is immaterial where else it was. He could take it from somewhere else and put it there if he wanted to draw the the checks, if he had it available somewhere else.

Mr. PATTEE.—If he had a hundred thousand dollars in three different banks, he could draw on any one of them for any fund.

The COURT.—If he had school money available at the same time?

Mr. PATTEE.—*I don't make any difference.*

(Argument continued.)

The COURT.—The objection is on the ground it was immaterial, is it not?

Mr. WILSON—Yes, sir.

The COURT.—The objection will be overruled. (Last question read by the Reporter.)

A. No.

(After objections to question of cross-examination were overruled, the witness proceeded as follows:)

Mr. RYAN.—Q. Now, retrace your steps, Mr. Schaefer. You said that you had somewhere in some bank \$10,000.00 available for payment of school funds?

A. I did.

Q. School warrants? A. I did.

Q. Have you anything in your books to show that a single dollar of that \$10,000.00 was on deposit—actually on deposit in the Bank of Winslow?

(Testimony of George J. Schaefer.)

A. None other than it was in one of the banks some place.

Q. Now, I will ask you if you did, in the course of your transactions with the Bank of Winslow, so keep your books that the amount received and paid out on account of separate funds—each specific appropriations were exhibited in separate and distinct accounts?

A. I don't get the question at all.

Q. What?

A. I don't get that question. No.

(Last question read by the Reporter and answered "No.")

Mr. PATTEE.—I don't know what that question means.

Mr. RYAN.—Q. You did not?

The COURT.—Well, the witness seems to understand it.

Mr. PATTEE.—Well, possible he does, but in view of the statute which he puts everything in the one fund and that fund is divided between a dozen different banks—

The COURT.—It seems to me that what you are trying to get at is this—

Mr. PATTEE.—What difference does it make whether he draws it on that one bank or—

The COURT.—School money is raised by taxation, isn't it, and when money is paid to the County Treasurer, it is apportioned to the school fund, isn't it?

(Testimony of George J. Schaefer.)

Mr. PATTEE.—Yes, but it all goes into the common fund in the bank, under the statute.

The COURT.—Yes, but the apportionment is the thing; the fact that the money is received and the fact that it was apportioned to any particular fund and that the money has not been paid out. It is still available. It doesn't make any difference whether it is deposited, I take it—

Mr. RYAN.—If your Honor please, in answer to general questions of counsel on the direct examination of the witness, he made certain statements that there was certain funds available. He has stated or supposed to state facts from the condition of his books—that he knows that this, that—this fund and that fund and the other. He says so from memory but, in answer to my question, which is based upon the language of the statutory duties of that treasurer, he has answered that he don't know and he did not keep the books so he could tell whether there was funds available for one particular fund or for another.

Mr. WILSON—I don't recall any such testimony.

A. No.

Mr. BARTH.—May I be permitted to ask him a question? Will counsel permit me to ask a question?

Q. Do you have your books showing the balance on the road fund on the 3d day of October, 1924?

A. I do.

Q. Will you read it, please?

(Testimony of George J. Schaefer.)

A. \$3,374.93.

Q. Do you know how many—the approximate amount of outstanding road warrants there was at that time?

A. Not over \$2,200.00.

Mr. WILSON.—Q. What was the balance in your salary fund?

A. \$5,354.41.

Mr. BARTH.—Q. What was the outstanding amount—approximately outstanding against the salary fund?

A. It was better than six thousand dollars.

Q. What was the balance in the expense fund or the deficit?

A. That was quite large. \$47,000.00 to the bad.

Q. To the bad?

The COURT.—How can you get at that school fund?

Mr. BARTH.—I didn't quite get your Honor's question.

The COURT.—The school fund. You touched all except the school fund.

Mr. BARTH.—There was a deficit of \$47,000.00.

A. In the expense fund.

Q. What was there in the general school fund?

A. \$10,079.20.

Q. What sort of warrants are drawn against the general school fund?

A. Just those of the County Superintendent's office expenses, I think, but this \$10,000.00 you

(Testimony of George J. Schaefer.)

understand, is apportioned out of this into the districts by the School Superintendent.

Q. And you don't apportion that part of it?

A. No, only on her order.

(Further cross-examination of the witness is continued by Mr. Isaac Barth.)

The witness stated: There are special school funds of 25 common school districts and three high school districts, and each district has a separate account.

Q. Will you kindly give us the aggregate amount of the money due to the credit of these school funds?

The COURT.—How long will that take you?

A. Aggregate? He wants an approximate amount.

Mr. BARTH.—Well, of course, a few hundred dollars—

Mr. WILSON.—I object to the materiality.

The COURT.—Do you want to follow these warrants down and find out the funds they were checked against?

Mr. BARTH.—No, sir, but I do want to do this: I want to know if the aggregate of the school fund, the expense fund, the road fund and the salary fund—how it corresponds with the bank balance and the outstanding—

A. Why don't you hire an accountant?

Mr. WILSON.—All that we have attempted to prove and we have proven it is that the bank had

(Testimony of George J. Schaefer.)

enough money to take care of all of these warrants.

Mr. BARTH.—Yes, but if there was money in the bank—

(The witness continues:) I have a sinking fund. They are on all the county bond issues of which there are approximately 12.

Q. Will you give us the amount—the aggregate amount that should be in the twelve sinking funds?

Mr. PATTEE.—I think I will object to that as immaterial and not proper cross-examination.

The COURT.—I don't know how that is material.

Mr. BARTH.—It is material, if your Honor please, in this effect. Assuming that he had \$20,000.00 in the bank and if he should have \$30,000.00 to the credit of the sinking fund, then he didn't have money enough with which he could legally pay those amounts.

Mr. PATTEE.—May I suggest to Mr. Barth that we have stipulated that \$15,000.00 was in the inactive fund. The rest was in the active fund subject to check.

(Argument continued.)

The COURT.—Objection is sustained.

(Further argument.)

The COURT.—I can't see that is right. The objection is sustained.

Mr. McLAUGHLIN.—We will note an exception on behalf of the defendants.

(Testimony of George J. Schaefer.)

Cross-examination Continued by Mr. RYAN.

Q. Mr. Schaefer, will you turn to your account on your books with the Bank of Winslow?

(Witness produces book.)

Q. Just read off the state of the balance of that account with the Bank of Winslow from the 1st of July up to the time the bank closed.

A. 1st of July, \$14,876.09.

Q. 1st of July, 1924?

A. 1924. Pardon me. That was \$21,428.69, 1st of July. 1st of August, \$14,876.09. 1st of September, the same.

The COURT.—What item is this?

Mr. RYAN.—The item of the actual balance of deposits in the Bank of Winslow beginning July 1, 1924—the state of account as shown by his books.

A. And October 1, \$26,662.85.

Q. What deposits, if any, were made between the 1st of September and the 4th of October?

A. There was a transfer of the Arizona State account of \$17,927.19 and a deposit of \$55.23 during September and another one of \$47.95 in October.

The COURT.—Q. There was on deposit at the time the bank closed its doors—

A. \$26,662.85.

Mr. RYAN.—Q. Now, you referred to the school fund yesterday—general school fund yesterday, Mr. Schaefer. Turn to that item again please. You said that on the 1st of—on the 30th of September

(Testimony of George J. Schaefer.)

there was a balance of \$10,079.22. Now, it is a fact, is it not, that that general school fund—that is a bookkeeping item, is it not?

A. Yes, sir.

Q. Showing receipts—general aggregate. It is a fact that that fund is actually distributed to how many districts? A. Twenty-five.

Q. And you distributed that on the order—

A. They would not necessarily go to twenty-five. It might go to two—which ever ones have that money coming. That is up to the superintendent of schools.

Q. So that, as a matter of fact, there is, except as a matter of bookkeeping, there is practically no general school fund in the county?

A. No, because it is apportioned away from there into others.

Q. So that that is a matter showing the aggregate receipts prior to apportionment?

A. That is the original source, though.

(Witness continues:) My expense account showed an overdraft of some forty odd thousand dollars during this same period. We used the monies of the redemption fund to let the expense account get into that shape. That was at another period that I told you I stated to the Board of Supervisors the 1st of July or about that time that we used some \$32,000.00 of redemption fund to carry these other—

Q. Well, how much of the redemption fund had you used as of October 1?

(Testimony of George J. Schaefer.)

Mr. WILSON.—If the Court please, I am going to now object to this line of questioning, on the ground that it is all immaterial as to what happened to the expense fund—how they were taking care of it.

The COURT.—I think the expense fund is out of this case.

Mr. WILSON.—In that connection, I might state, your Honor, that we practically admit no offset in regards to that, because there was no money in the fund. It was in the red.

Mr. RYAN.—May I suggest something to your Honor? Now, it appears that all of the money of this county, so far as any bank was concerned, was put there in one account. It was all treated on the books as a general pocketbook.

The COURT.—Yes, that appears very clearly in the evidence.

Mr. RYAN.—Now, there is some evidence to show not that it was done but that it was intended to be done at some time to pay certain school warrants.

The COURT.—Q. Where do they get the money for the road fund?

Mr. WILSON.—Special levy for that.

A. Special levy.

The COURT.—Q. Any transfer from the sinking fund to the road fund to cover these warrants?

A. All of these funds—the monies in the general fund—school fund and the road fund was transferred from what they call a state and county col-

(Testimony of George J. Schaefer.)

lection fund. They are all collected by the state and county taxes and the apportionment made from there, as directed, by the Board of Supervisors, according to the levy of the budget.

Q. But the question is, did you take from the sinking fund any cash and transfer it to the road fund for the purpose of taking up these warrants?

A. Only to the expense fund.

Q. Never to the road fund or the school fund?

A. Never.

The COURT.—Is that what you are after?

Mr. RYAN.—Well, that is— Q. But so far as any account that you had at any bank, if you drew a check on that bank for expense account, if there was money there, it was paid wasn't it?

A. I did not draw on any bank for expense accounts. The boards designates the accounts. I would have a pocket full of money or two pocket fulls and I might draw from one or the other. It is all one thing. Yes, the Clerk of the Board of Supervisors draws warrants on the various funds according to the county appropriations, and these warrants finally come to me; and my mode of paying is to draw check on some deposit in some bank, or out of my cash drawer, if it is all cash. The amount I carried in my vault varied a whole lot. During the months of October and November, April and May, I carry two or three thousand in cash. If I drew a check on the expense to take up an expense warrant and drew it to the Bank of Winslow, they paid that check out of any funds

(Testimony of George J. Schaefer.)

to the credit of, to my credit. And if I drew a warrant on the road fund, and I drew that on the Bank of Winslow or any other bank that showed a balance in my general deposit, that check was paid. And the same was true with all other checks that I drew to take up any school fund warrants and salary fund warrants.

Q. And the result of it all was that when you finally figured up you had overdrawn your expense account some forty thousand dollars and you were how much shy on your redemption fund?

Mr. WILSON.—Objected to as calling for a conclusion.

The COURT.—Objection is sustained.

Mr. RYAN.—Very well. An exception, if your Honor please.

(The witness continues:) I had collections that went to the credit of the general school fund that you have been talking about from collection of taxes about the 1st of Sept. and the 1st of Oct.—during September and all of the months. I have a record to show what became of the proceeds of that collection. It went to the various districts—that is, the money went to some one bank. I don't know which one. Any of them. It did not make any difference.

Q. What other banks besides the Bank of Winslow, and its branches were you doing business with during the month of September?

Mr. WILSON.—If the Court pleases, I am going

to object to that line, because it is immaterial and it has already been covered by this witness.

The COURT.—I think it is immaterial. You seem to take the position that you must follow this identical money as distinguished from other general deposits. I don't get the idea.

Mr. RYAN.—If your Honor pleases, the idea of that is simply following the law of the State of Arizona, as I understand it. Your Honor and I may differ about that but every dollar that is raised for county purposes is raised with respect to a budget. It is appropriated to certain purposes. That is tax money. It must not be used for any other purpose.

The COURT.—Well, we will assume that they raised money for the schools and for roads and for expenses for various other funds and it is all placed in these funds and carried on the books in separate funds but all of the funds are deposited in the bank—

Mr. RYAN.—In some bank.

The COURT.— —without any designation as to which fund. The bank has no knowledge of which fund it is but they have a large fund of money there. Now, his books will show that there is so much money to the credit of a certain fund. What difference does it make whether it is *ine* bank or two banks or four banks?

Mr. RYAN.—I will suggest this to your Honor in support of my question. Would your Honor believe that the Bank of Winslow itself on the 3rd

of October could have taken such warrants as it had in its vaults and looked on its ledger and charged those warrants to that account without the authority to so do issuing from the county treasurer?

Mr. WILSON.—If the Court pleases, that is not our contention and counsel—

Mr. RYAN.—It is my contention that you could not do it.

Mr. WILSON.—When the bank closed, then the rights of the parties under the law became established and from the date the bank closed we are asserting and submitting to your Honor that a certain status existed, and it is upon that status that our rights depend.

Mr. RYAN.—If Mr. Wilson would let me get through.

Mr. WILSON.—I am trying to indicate, Mr. Ryan, that this—

Mr. RYAN.—I am outlining the position that I am taking with respect to this line of proof. Now, if the Bank of Winslow could not, as an insolvent bank at any time have taken a bunch of warrants—this particular bunch of warrants that were in their possession at various times and various amounts and looked at the account of George J. Schaefer, Treasurer of Navajo County, and say with respect to those warrants when he sent down a check there for \$10,000.00 they did not want to pay—“Why, Mr. Schaefer, we can’t do that. We are going to charge your account off with these registered war-

rants that we hold against Navajo County.” Now, unless they could do that, the surety is in no better position than the principal would be with respect to set off. That is my position and that is why I am trying to show—that is why I am trying to show that there was no—there was not sufficient funds to take care of anywhere—to take care of the outstanding obligations. The paid warrants, to be sure. They have paid school warrants but they borrowed on other funds to do it to leave anything in that bank. I may be wrong, but that is my position, your Honor.

Mr. BARTH.—May it please the Court, insofar as Apache County is concerned, we think that this evidence is material and we would like to see it go on the record, because the Court has evidently considered it material that at the time the bank closed the Treasurer of Navajo County had money enough on hand to pay the outstanding warrants if they had been presented.

(Argument continued.)

The COURT.—Now, what is the question before the Court?

(Question read by the reporter.)

The COURT.—What is the objection?

Mr. WILSON.—I objected on the ground that it is immaterial.

The COURT.—Objection is sustained.

Mr. BARTH.—As I was going to say, my argument was not directed to that phase of it.

The COURT.—The objection is sustained. Proceed.

(Testimony of George J. Schaefer.)

Mr. RYAN.—Take an exception on behalf of all the original defendants, if the Court please.

Mr. BARTH.—May I ask him one question and then be through?

Mr. McLAUGHLIN.—Certainly.

Mr. BARTH.—Q. What do your books show as to the amount of dollars—aggregate amount of dollars that there should have been to the credit of the bonds sinking fund?

Mr. WILSON.—I object to that as immaterial, if the Court pleases.

The COURT.—The objection is sustained.

Mr. BARTH.—Note our exception.

Mr. RYAN.—Note an exception on the part of all of the original defendants in the case.

Cross-examination.

(By Mr. McLAUGHLIN.)

(Witness continues:) I am acquainted with Mr. Kenneth Myers, who was at one time manager of the Bank of Winslow at Holbrook, and Mr. Myers inquired of me, before the Bank of Winslow closed, as to what time the warrants held by the Bank of Winslow were to be paid. That was some time during the three or four months he was there, and was at my office in Holbrook. I think it was during July, 1924. This memorandum is in the handwriting of Kenneth Myers. I don't know that the memorandum was made at that time. I think we talked over the phone regarding this. What I remember telling him was just like this reads, that

(Testimony of George J. Schaefer.)

all school warrants should be paid in November; that all salary warrants paid about January 1. I did not anticipate the good luck that I had at that time when I spoke. I was ready before that. The yellow road fund; that is the color of the warrant. He put the color of that. Paid about January 1. Should be paid, and the pink expense funds, approximately May, 1925.

Mr. McLAUGHLIN.—Q. And that is the last conversation you had with Mr. Myers, with reference to that?

A. I don't think so. There might have been more.

Mr. WILSON.—If the Court please, I am going to move to strike that last line of testimony, now that it has come out.

The COURT.—On what ground?

Mr. WILSON.—As immaterial, as well as being irrelevant.

The COURT.—Motion is granted and the evidence is stricken and an exception.

Mr. McLAUGHLIN.—We will note an exception, your Honor. What was the ground of the counsel's motion?

The COURT.—Immaterial.

Mr. McLAUGHLIN.—We would state for the purpose of the record our position in this matter. It is proper cross-examination for the purpose of showing that the funds were not available for the payment of these warrants at the time testified to in direct examination.

(Testimony of George J. Schaefer.)

The COURT.—He has not testified that they were available.

Mr. McLAUGHLIN.—Yes, sir, and this is cross-examination, your Honor. This is cross-examination which shows that he made statements contradicting that and the very purpose of cross-examination is to contradict what was brought out in direct examination.

(Argument continued.)

The COURT.—Well, the ruling may stand.

Mr. McLAUGHLIN.—Is our exception noted? Exception on behalf of all the defendants.

(Witness continues:) School warrants 151, 7 and 8, dated in September and October, 1922, included in Plaintiff's Exhibit 155, were liquidated after the failure by giving credit upon the bank account to the Bank of Winslow.

Mr. McLAUGHLIN.—Q. Now, this School District No. 1 warrant is in the sum of \$1,015.06, warrant No. 151? A. Yes.

Q. What school district was that drawn upon?

A. No. 1 of Winslow.

Q. For what purpose was it drawn—in payment of what?

A. I don't know offhand. I would have to see the vouchers.

Q. Well, as a matter of fact, was it not drawn in payment of many—of warrants that were consolidated to arrive at this sum? In other words, no school teacher would receive that much money as a salary warrant for one month?

(Testimony of George J. Schaefer.)

A. I don't believe so.

Mr. McLAUGHLIN.—Q. In order to arrive at that figure, it would be necessary to consolidate several warrants?

A. Yes.

Q. And that is evidently—

A. Unless it was for supplies or coal shipment or anything else for the—

Q. It was your practice to consolidate several warrants into one warrant?

A. No, I never issued them.

Q. You never issued them?

A. No, they were issued by the County Superintendent of Schools.

Q. Do you know whether or not it was the practice of the County Superintendent of Schools to consolidate them? A. It was.

Q. After they were brought to you for registration, was the form of the warrant at any time changed as to payee? A. Never.

Q. After they were registered by you, were they ever returned to the County Superintendent of Schools and by her changed? A. Never.

Q. As to the payee or the amount and then re-registered by you?

A. No. I have no knowledge of it, if it happened.

Q. Now, when you spoke yesterday of re-registering these warrants Mr. Schaefer, what did you refer to?

(Testimony of George J. Schaefer.)

The COURT.—He changed his testimony on that.

Mr. McLAUGHLIN.—I didn't mean to—

The COURT.—The record does not show that he re-registered any warrants.

Mr. PATTEE.—He used the term as applied to the registration of new warrants.

The COURT.—New warrants was his testimony.

Mr. McLAUGHLIN.—That is all for us.

The COURT.—Any further cross-examination?

Mr. BARTH.—Q. You testified yesterday, I believe, that there was money available for the payment of these outstanding county warrants on the day the Bank of Winslow failed?

A. Certain warrants.

Q. Was that money—was the amount of that money—withdraw that and I will frame it differently. Could you have paid it out of the money in your hands to the credit of those particular districts or funds? A. To the credit of the different—

Q. Sir?

A. I don't quite get the—to the credit of the particular districts—out of my hands to their credit—it would be to their debit.

Q. Well, at the time that you say this money was available, as I understand it, you had a certain amount of money in the bank, if these warrants had been presented to you for payment. Did you mean by that statement that you could have taken this money that you had in this fund and paid the warrants? A. Yes.

(Testimony of George J. Schaefer.)

Q. Did you mean also that all of those funds that you mentioned, not counting the exceptions that you made, had that much to their credit at the time?

A. I did.

The COURT.—That is what he testified to yesterday and he testified from the books to that effect, Mr. Barth.

Mr. BARTH.—That is all.

Mr. WILSON.—Q. Now, Mr. Schaefer, will you state—when you answered a question about the merging of these claims in one warrant, I understood you to say that they merged warrants and issued one. Did I misunderstand you or did you mean—

A. I meant to say they merged vouchers into one.

Q. Vouchers and claims? A. Yes.

Q. I wanted to get that clarified. Mr. Schaefer, were warrants drawn for manual training school expenses chargeable against the general school fund?

Mr. RYAN.—I object to that as a question of law.

Mr. WILSON.—No, I am asking him if he charged them against the general school fund.

Mr. RYAN.—I object as immaterial what he did. It is a question of law as to where those should be charged.

Mr. WILSON.—He is supposed to know the law, if the Court please. He is an official administering the law.

The COURT.—Well, he may answer how they were charged. Objection overruled.

(Testimony of George J. Schaefer.)

Mr. RYAN.—Take an exception.

A. They were charged against not the general fund but they had two manual training accounts, one on what we consider School District 1 and 3 and they were charged against their common school accounts?

Mr. WILSON.—Q. Were there any other manual training school funds?

A. No, just two.

Q. And all warrants that were drawn for that purpose were drawn and paid out of the account which you kept and not general school fund?

A. That is under a district heading, yes.

Q. And, at the time the bank closed, you had sufficient money in those funds to take up any outstanding manual training school warrants?

A. I did.

The COURT.—Some of these warrants were manual training school?

Mr. WILSON.—Yes, sir, there was three of them—two or three. I think and I just wanted to make sure that they were included, that is all. Now, I want to introduce, if the Court please, Plaintiff's Exhibit 163, which I overlooked yesterday, for identification. It is a letter from Neel, vice-president of the Bank of Winslow, acknowledging receipt of Mr. Schaefer's receipt for the registered warrants in the amount of \$2,839.24.

Mr. RYAN.—I will object to it, for the reason that it fails to identify any of the warrants there

referred to in the aggregate nor of the warrants involved in this case.

The COURT.—What is it?

Mr. RYAN.—It says, “This will acknowledge receipt of your letter of the 26th enclosing a receipt for registered warrants in the amount of \$2,839.24, which were being held by you as a guaranty of county deposits. Receipt of the Panama Canal bond for \$1,000.00 which has been held by you is also acknowledged.”

Mr. WILSON.—This is a completed transaction. The other two have already been introduced.

The COURT.—Objection is overruled.

Mr. RYAN.—Take an exception.

The COURT.—Read the letter.

Mr. WILSON.—“Mr. George J. Schaefer, County Treasurer, Holbrook, Arizona. Dear Mr. Schaefer: This will acknowledge receipt of your letter of the 26th enclosing a receipt for registered warrants in the amount of \$2839.24 which were being held by you as a guaranty of county deposits. Receipt of the Panama Canal bond for \$1,000.00 which has been held by you is also acknowledged. Yours very truly.”

The COURT.—What is the date of that?

Mr. WILSON.—The date is March 29, 1924, written on the letterhead of the Bank of Winslow, Winslow, Arizona.

The CLERK.—163, Plaintiff’s.

Mr. WILSON.—That is all.

Mr. RYAN.—Are you through with the witness?

Mr. WILSON.—Yes, sir.

Mr. RYAN.—I wish to move to strike out all of the testimony of Mr. Schaefer in any way bearing upon the question of funds being available for the payment of the school warrants, road warrants and salary warrants as identified in the exhibits, for the reason that there is no showing that there was any money in the Bank of Winslow or any of its branches available at the time of the failure for the payment of any one of those warrants, the account being a general account. There has been no identification of the money in the bank or the account in that bank as having been deposited from receipts received by collections of taxes and other revenues to the school fund, the road fund, the salary fund or any other of the funds represented by the warrants which he claimed that he would have paid or could have paid but did not pay and for the further reason that it does not appear that any—at any time—it does appear that there were other warrants issued in consecutive order against these funds registered to other parties and that there has been no such call for the payment of warrants as would permit the following of the law that registered warrants be paid when funds are available in the order in which they were presented and registered to be called for payment in that order and no other.

The COURT.—The motion is denied.

Mr. RYAN.—Take an exception for all of the original defendants.

TESTIMONY OF A. T. HAMMONS, FOR
PLAINTIFF.

A. T. HAMMONS, being called as a witness on behalf of the plaintiff and first duly sworn, testified as follows:

Direct Examination.

(By Mr. WILSON.)

Q. Mr. Hammons, give your name and occupation.

A. A. T. Hammons, State Superintendent of Banks.

Q. Were you such State Superintendent of Banks in May, 1924? A. I was.

Q. At that time under the laws of the State of Arizona, were all mergers, increases in capital stock and consolidations in state banks under your supervision? A. They were.

Q. At that time, in May, 1924, did the Merchants and Stock Growers Bank of Holbrook and the Arizona State Bank of Winslow merge and consolidate with the Bank of Winslow and did the Bank of Winslow increase its capital stock to \$150,000.00?

Mr. McLAUGHLIN.—Now, if your Honor please, we object to that on the ground that it is not within the pleadings in this case; that it is incompetent and irrelevant as to any issue involved in this action. There is no pleading on the part of the plaintiff alleging any such consolidation in

(Testimony of A. T. Hammons.)

any manner and as far as the pleadings and the proof go it has no bearing.

Mr. PATTEE.—If the Court please, the pleadings plead ultimate facts. It pleads the state of the accounts—how they came to be that way.

The COURT.—The objection is overruled.

Mr. McLAUGHLIN.—Note our exception on behalf of all defendants.

A. Now, I would like to have that question stated to me.

The COURT.—There are two questions—possible three involved in that question that is propounded.

(Question read.)

A. The Merchants and Stock Growers Bank of Holbrook and the Arizona State Bank of Winslow did not merge.

Mr. WILSON.—Q. They assigned and conveyed to the Bank of Winslow all of their assets, did they not?

A. No.

Q. Subject to certain guaranties on the part of the Arizona State Bank and the Merchants and Stock Growers Bank and their stockholders?

A. They only assigned certain assets and assumed certain liabilities.

Q. As a matter of fact, Mr. Hammons, you have in your possession, as the custodian of such records, an assignment of the Merchants and Stock Growers Bank by the President and attested by the Secretary assigning, transferring and conveying the

(Testimony of A. T. Hammons.)

assets of that bank to the Bank of Winslow, haven't you?

A. Certain assets, yes. Not all of them. Not all of the assets.

Q. Have you that assignment?

A. I have it in my office somewhere.

Mr. WILSON.—I will ask the witness to produce it this afternoon at 2:00 o'clock.

Mr. McLAUGHLIN.—If the counsel please, I believe that he said that that assignment is in our office at Holbrook.

Mr. WILSON.—It was made in triplicate.

Mr. McLAUGHLIN.—Well, Mr. Hammons' copy is in our office, I think.

The COURT.—The main thing you want to prove is when was that assignment of these particular accounts and warrants and bonds transferred to the Bank of Winslow. If it is a fact, can you stipulate it?

Mr. WILSON.—It is a fact, of course. I am willing to agree to it rather than take up the time of producing those records.

The COURT.—Do you know it to be a fact?

Mr. SAPP.—Mr. Hammons has answered it correctly.

Mr. McLAUGHLIN.—Mr. Hammons' testimony is correct as to what he has stated.

The COURT.—You have seen the assignment, haven't you?

Mr. McLAUGHLIN.—Yes, I have seen the assignment.

(Testimony of A. T. Hammons.)

The COURT.—You have examined it and you know whether these accounts and these bonds and *theses* warrants passed to the Bank of Winslow.

Mr. McLAUGHLIN.—No, they are not covered in that assignment, your Honor.

Mr. WILSON.—By exception, they are.

Mr. McLAUGHLIN.—Well, the assignment, if you have a copy of it, speaks for itself.

Mr. WILSON.—Isn't that true, Mr. McLaughlin, there are some exceptions? The rest of it all goes over?

A. If you would let me answer—

Mr. McLAUGHLIN.—Mr. Hammons can state the details on that.

A. I will state this, your Honor, that there was certain assets in both of those banks that the Superintendent of Banks would not allow to go into the—intermingle with the assets of the Bank of Winslow, because, to my mind, they were worthless.

Mr. WILSON.—Q. That would not include warrants?

A. No, it would not.

Q. It would not include town improvement bonds? A. No.

Q. And they went over, if there were any, to the Bank of Winslow? A. Yes.

Mr. WILSON.—That is all.

The COURT.—Q. What was your answer?

A. They did.

(Testimony was thereupon introduced having reference to warrants of Apache County, which are

not involved in this matter, so far as the appellants are concerned; and upon the conclusion of the testimony of plaintiff, the following proceedings were had:)

Mr. McLAUGHLIN.—Is that the plaintiff's entire case?

Mr. WILSON.—That is the plaintiff's entire case.

Mr. McLAUGHLIN.—At this time, your Honor, the defendants Hammons and Dodson would move the Court for a dismissal of the action, having particular reference to the items referred to as the expense account warrants, on the ground and for the reason that these warrants—as to these warrants there is no evidence which discloses any right of offset. Now, in argument on that, I would call the Court's attention to the fact that the evidence of the plaintiff clearly discloses that there was no funds available for the payment of these warrants and for that reason we believe that the case as to the expense account warrants should be dismissed, with the exception of that part of the pleading which asks for the return of warrants from Apache County.

The COURT.—You all agree to that, do you not?

Mr. WILSON.—I think the objection is well taken, if your Honor please.

(After argument of counsel with reference to Apache County warrants, not concerned in this appeal by these appellants, the following proceedings were had:)

Mr. McLAUGHLIN.—If your Honor will pardon me, the disposition of the original motion which I made, that motion was granted, as I understand?

Mr. STOCKTON.—What was that motion?

Mr. McLAUGHLIN.—My motion was with reference to the expense account warrants; that the action be dismissed exclusive of the Apache County warrants.

The COURT.—No, that motion is not granted.

Mr. McLAUGHLIN.—That was the motion which Mr. Wilson agreed, as far as his client is concerned, that it was correct.

Mr. WILSON.—Now, if the Court please, I would like to correct counsel. I said that we would admit it to the extent that we were not interested in claiming an offset for a fund which did not show any money against it in the Bank of Winslow on October 4, 1924, so that that would be settled, but that is far as we go.

Mr. McLAUGHLIN.—Except as to the Apache County Warrants—you said that the—

Mr. PATTEE.—There would not be any warrant for entering a judgment of any kind but that admission was made for the purpose of relieving the counsel and the court from the necessity of hearing any evidence.

Mr. WILSON.—That is the point.

(Argument between counsel.)

Mr. McLAUGHLIN.—The defendants Hammons and Dodson at this time move the Court, and I believe this motion is concurred in by the other de-

defendants, Mr. Wilson, that the action be dismissed as to the items of warrants which are shown by the evidence to have been school warrants, on the ground and for the reason that it appears from the evidence and from the law that school bonds are held by the county as a trustee; that they are not subject to any offset in favor of the county, it further appearing that the warrants are not issued by the county but are issued by the County Superintendent of schools on particular funds; that for this reason there could be no offset of any such funds allowed in this action, this motion to dismiss as to the school funds, of course, not applying to the school fund warrants of Navajo County, which are on deposit with the County Treasurer of Apache County.

The COURT.—Merely to the warrants?

Mr. McLAUGHLIN.—To all the warrants, yes.

The COURT.—Well, that is a question that I am not advised on as to whether or not it is subject to offset. Is there any statute?

Mr. PATTEE.—These motions are wholly unnecessary except as they may serve to call the court's attention to the attitude of counsel. They are matters of argument when the case is closed.

(Argument continued.)

(After motions made by Mr. Stockton and Mr. Barth, with which these appellants are not concerned, the following proceedings were had):

Mr. McLAUGHLIN.—Now, if your Honor please, completing our motions on behalf of the defendants,

we move the court that the action be dismissed as to all of the funds and as to all of the warrants referred to in evidence and in the pleadings and as to all of the issues in the case raised by the plaintiff except the issue of the illegal deposit of county warrants with the Treasurer of Apache County, on the ground and for the reason that the evidence as adduced here fails to disclose any right of offset, on the ground that there is no showing that at the time that the Bank of Winslow closed there existed any such relation of debtor or creditor as would justify the allowance of any offset. In other words, our objection is further that there is no showing that there was any funds of Apache County on deposit in this bank—no funds of Navajo County on deposit in this bank which had been appropriated for the purpose of paying any of these warrants and on the further ground that there is nothing in evidence to show that there was any cash whatever in the hands of the Bank of Winslow for the purpose of paying these warrants.

The COURT.—That motion is denied.

Mr. RYAN.—Just one additional, so we will have all of these funds covered more specifically. I move that the action be dismissed—plaintiff's action be dismissed by reason of all the legal objections which are raised as legal defenses in the answer of the defendant county and also for the reason that there is under the laws of the State of Arizona no distinction between expense fund warrants and salary fund warrants; that under the law salary fund is an expense, so

made by statute a part of the expense fund and it appearing distinctly in this case that there was no expense fund and that the expense fund was overdrawn to the extent of over \$40,000.00 on the 4th day of October, 1924. It shows that there was no fund properly available by the Treasurer to pay any of the so-called salary warrants that have been introduced here in evidence; for the further reason that the complaint fails to allege any dereliction of duty on the part of the Treasurer in calling in warrants according to the statute and in the order in which they were registered, it appearing that there was a large number of registered warrants on all of these funds and particularly the salary fund other than those in controversy in this suit entitled to priority in payment from any funds whenever available and the compelling of an offset at this time in favor of the plaintiff would be to destroy a right of other creditors of the County of Navajo to priority of payment as funds come in—became available and were set aside by the Treasurer and a call made for the payment of those warrants—no proof of any such call—no proof of any order of the Board of Supervisors setting aside any funds to take up registered warrants and this court would undertake to direct a set-off in a case where the set-off under the laws of the state had not matured, according to the law applicable to the maturity date and the time for payment of registered warrants and the manner and order of payment. That applies not only to the road warrants. It applies to all the registered

warrants and particularly to the salary warrants on the grounds stated.

The COURT.—Motion denied.

Mr. RYAN.—Exception.

Mr. McLAUGHLIN.—I would like to take an exception to all those recent adverse rulings and I would like at this time to have an exception noted, your Honor, and we would like to have one more motion, and at this time we would like to state for the record that our previous motions have all been made without a waiver of the questions of jurisdiction which have heretofore been raised and passed upon by this court and at this time we move the court to dismiss the case on the ground and for the reason that it appears from the evidence as adduced here that the *corpus* of this estate is involved in the action entitled in the matter of the liquidation of the Bank of Winslow, Winslow, Arizona, having branch offices at Holbrook, Arizona, and St. Johns, Arizona, file No. 1865 in the Superior Court of the State of Arizona in and for the County of Navajo, the said court being a court of record, having prior to the commencement of this action acquired jurisdiction of the *corpus* of the estate and being the only court which at this time has any jurisdiction thereof. This objection is made pursuant to the objection raised heretofore in a motion to dismiss and also in our answer.

The COURT.—Motion is denied. Are there any other motions?

Mr. McLAUGHLIN.—Note an exception.

TESTIMONY OF MISS ROBERTA TANDY,
FOR DEFENDANTS.

Miss ROBERTA TANDY, being called as a witness on behalf of the defendants and first duly sworn, testified as follows:

Direct Examination by Mr. McLAUGHLIN.

My name is Miss Roberta Tandy. I reside at Holbrook, Arizona, and I am the deputy clerk of the Superior Court of Navajo County. I have held that position since the first of December, 1924. In the files of the Superior Court, Navajo County, Arizona, there is a matter or proceeding or an action entitled "In the Matter of the Liquidation of the Bank of Winslow, Winslow, Arizona, having branch offices at Holbrook, Arizona, and St. Johns, Arizona." I have the files of that action.

Q. Will you ascertain from the files the date that that action was filed?

Mr. PATTEE.—If the Court please, I will object to any further testimony along the line of the pendency of any such proceeding, on the ground that the purpose of it can only be in support of the assertion that this court is without jurisdiction and for reasons that have already been discussed, and discussed very fully. There is no doubt in the world that the court has jurisdiction of the subject matter and, hence, this testimony is both incompetent and immaterial.

The COURT.—You know it is a fact, however, that this action was pending?

(Testimony of Miss Roberta Tandy.)

Mr. PATTEE.—Oh, I haven't any doubt that the statutes compel a proceeding in an action.

The COURT.—Yes, a proceeding.

Mr. PATTEE.—A proceeding but that it does not effect the jurisdiction of this court either over the person of the Superintendent of Banks or the subject matter of this particular suit.

The COURT.—That is a question that has been argued to this Court before. The objection will be overruled and the evidence may be admitted. It is a question of argument.

Mr. PATTEE.—Note our exception and we will reserve the same objection to all testimony along this line and an exception to the ruling of the court.

(The last question was read by the reporter and the witness answered: "October 14, 1924.")

(The witness continues:) That action is still pending before that court and has not been disposed of. There is no order in the files of that court empowering or authorizing the Maryland Casualty Co., to bring this action. I am the clerk that has active charge of the filing of documents, and have made an examination of the docket in the case, and I know there is no such order. I believe there is no claim filed by the Maryland Casualty Co. in that matter, and I have the complete files of that matter here with me, and there is no such claim in these files.

(There was no cross-examination of this witness.)

TESTIMONY OF J. S. DODSON, FOR DEFENDANTS.

J. S. DODSON, being called as a witness on behalf of the defendants and being first duly sworn, testified as follows:

Direct Examination by Mr. RYAN.

I was the Assistant Superintendent of Banks who took charge—took possession of the Bank of Winslow and its branches for the Superintendent of Banks, when they closed. I have in my possession a memorandum from which I can refresh my memory as to the amount of cash money that was in the Bank on the 4th day of October, 1924.

The COURT.—This applies to the 4th day of October?

Mr. RYAN.—At the time it failed, your Honor.

Mr. WILSON.—If the Court pleases, I am going to object to that as immaterial. It makes no difference how much the cash the bank had. The testimony has been that the county had so much on deposit. We claim an offset. We claim an offset against the deposit, not against the cash in the bank when it closed, the deposit constituting a contract between the county and the bank and the warrants constituting another contract between the bank and the county. It is not a question of how much cash was in that bank. We are not trying to follow a trust fund or embrace the cash that was in the bank with the trust. It is a deposit proposition and we object to this testimony as absolutely

(Testimony of J. S. Dodson.)

immaterial. It has nothing to do with our claim of offset.

The COURT.—The objection is overruled.

Mr. WILSON.—Exception.

Mr. RYAN.—You may answer, Mr. Dodson.

A. Will you read the question again please?

The COURT.—This relates to cash?

Mr. RYAN.—On hand in the banks—this insolvent bank with its two or three branches.

Mr. WILSON.—Now, if the Court please, I am going to make the further objection that no proper foundation has been laid for this question and it is, therefore, incompetent and irrelevant.

The COURT.—In what way no foundation was laid?

Mr. WILSON.—No foundation, because the books of the bank are the best evidence of what cash it had or other cash assets at the time that it closed. This witness is asked to testify concerning something which is a written record, which is the best evidence of the fact that he is asked to testify concerning.

Mr. RYAN.—The witness, your honor, has said that he was the one that took possession and I am practically asking him how much tangible cash he found in the Bank of Winslow and its various branches. That is a matter of knowledge just as—

The COURT.—Are you asking for all cash in the bank?

Mr. RYAN.—That he found in the bank.

The COURT.—Or cash to the credit—

Mr. RYAN.—I am asking for the actual cash that he found in that bank at the time—and its various branches on the 4th of October when he took possession of it.

The COURT.—That is a different question, it seems to me.

Mr. RYAN.—What?

Mr. WILSON.—I renew my objection that it is immaterial, if your Honor please. I can't see the materiality of it or the relevancy of it in any way.

(Argument continued.)

The COURT.—You are objecting on the ground that it is immaterial?

Mr. WILSON.—Yes, sir.

The COURT.—The objection is sustained.

Mr. RYAN.—Take an exception, your Honor.

Mr. McLAUGHLIN.—Exception on the part of all defendants.

Mr. BARTH.—Exception on the part of intervenor Apache County.

Mr. RYAN.—In connection with that, if your Honor please, may I make another or further offer that it is my intention or purpose to attempt to prove that at the time the bank closed its doors there was not to exceed \$32,000.00 of tangible cash in all of the branches of that bank and I want to prove it by this witness either by the books or some other way. Will I be permitted to do so?

The COURT.—Well, you can offer to prove it. If an objection is made the chances are I will sustain the objection on the ground that it is immaterial.

(Testimony of J. S. Dodson.)

Mr. RYAN.—Q. Well, then, I will ask that after that—I will ask if the statement which I have made is substantially correct as to the amount of cash you found in the branches—the aggregate amount?

A. It is.

Mr. WILSON.—I will object to the question as immaterial.

The COURT.—The objection is sustained.

Mr. RYAN.—Save an exception to the ruling on that.

The COURT.—I don't think it makes any difference if there was ten cents in that bank at the time it closed its doors.

(Argument between Court and counsel.)

Mr. RYAN.—Now, the stipulation, may it please your Honor, is that there was on deposit to the credit of Navajo County so many dollars. That simply means that that fifty-one thousand some odd dollars was a credit to Navajo—the amount of the debt of the bank to Navajo \$51,209.75, regardless of the point which I am now trying to show, that if on that date a demand had been made even to transfer that credit to some solvent or some other bank, I want to show and prove by this witness that at the date the bank closed its doors that if a demand had been made on that bank for \$51,209.75 that bank could not have paid it.

The COURT.—I believe it is immaterial and I have so held.

Mr. McLAUGHLIN.—An exception is noted on behalf of all defendants.

(Testimony of J. S. Dodson.)

Direct Examination of Mr. Dodson by Mr. Mc-
LAUGHLIN.

After the Bank of Winslow was taken over by the Superintendent of Banks, Mr. Hammons, I remained in active charge of the Bank for some time—approximately nine months, and during that time I filed certain papers and documents in the Superior Court of Navajo County, Arizona, together with my attorneys. My actions in that matter were all under the direction of Mr. Hammons who had taken charge of the bank, and I acted pursuant to appointment received from Mr. Hammons, which appointment was duly filed with the Superior Court of Navajo County, Arizona, and I gave a bond, and at the time this suit was brought I was Special Deputy Superintendent of Banks in charge under Mr. Hammons, and had the *ssets* of the Bank of Winslow in my possession as such special deputy. I filed in the Superior Court of Navajo County, Arizona, an inventory of those as required by law. I have in my hand at this time a copy of that inventory. Among the assets of the Bank of Winslow reported in the inventory there are \$7,000.00 of Winslow Improvement Bonds. These are the Winslow improvement bonds which were received from Mr. Schaefer. Among the assets I also ascertained there were several Navajo County warrants; some of them were payable to the Bank of Winslow direct and some of which were payable to various other parties.

(Testimony of J. S. Dodson.)

Direct Examination by Mr. RYAN.

(Witness continues:) After I took possession, I made an effort to collect or have paid the warrants held by me as assistant superintendent of banks. Shortly after I took charge of the bank—The Bank owed something like one hundred sixty thousand, a hundred thousand or one hundred sixteen thousand to the First of Albuquerque, which I paid. There was approximately \$43,000.00 still due in bills payable to the First of Los Angeles, and, if I remember correctly, I took the matter up of these bonds and county warrants and was trying to raise the money on them and get the money from the county in order to liquidate the outstanding bills payable with the First National of Los Angeles.

Mr. WILSON.—Just a minute. I move to strike the question and answer as being immaterial and not tending to prove any issue in this case.

The COURT.—What is the purpose of it?

Mr. RYAN.—If your Honor pleases, there is some testimony that the County Treasurer would have taken some funds to pay certain of these warrants.

Mr. WILSON.—Before the bank closed.

Mr. RYAN.—Before the bank closed but, when they are presented in due course of business by the successor of the business, who by law acquired and has title to all of those assets, they were not paid and still, according to the records, appear to have not been paid on February 25, at the commencement

(Testimony of J. S. Dodson.)

of this suit as bearing upon the question of whether Mr. Schaefer's ideas of what he could pay were warrants by the circumstances.

Mr. WILSON.—Apart from the immateriality of the statement of the counsel, the fact was that the Treasurer was enjoined by this court from paying these warrants as an independent—

Mr. RYAN.—Not at that time.

The COURT.—Q. To whom did you present them to?

A. I could not say that I really presented them in person to anyone but I took the matter up with the County Treasurer's office and I was informed that there was no money to pay them.

Mr. WILSON.—Objected to, if the Court please, because it was apparent that the money was in the Bank of Winslow and the County Treasurer had a right to refuse to pay them under the circumstances. He was strictly within his right and probably within his lawful duty. I reiterate my objection.

Mr. RYAN.—The fact is that there is no proof that there was any money in the Bank of Winslow to pay these particular warrants. The testimony is that the Treasurer had some money somewhere with which to pay.

The COURT.—He thought he had \$51,000.00 in the Bank of Winslow.

Mr. RYAN.—That is the testimony.

The COURT.—He should have had it there too.

(Testimony of J. S. Dodson.)

Mr. RYAN.—I agree with you there but it appears that he did not have money except—

The COURT.—The objection to this question will be sustained.

Mr. RYAN.—Take an exception, your Honor. I think that is all.

Mr. McLAUGHLIN.—At this time, we offer to prove by the witness on the stand that immediately subsequent to the closing of the Bank of Winslow on the 4th day of October, 1924, and prior to the issuance of a restraining order in this proceeding the witness on the stand, as Special Deputy Superintendent of Banks, asked the County Treasurer to cash these warrants.

The COURT.—You just interrogated the witness. I think that when the witness says that he—that your offer includes more than you can elicit from him. You had better ask the question for the record.

Mr. McLAUGHLIN.—Q. Did you at any time, Mr. Dodson, subsequent to the taking over of the bank and prior to the issuance of a restraining order in this case ask Mr. Schaefer to cash these warrants?

A. I discussed the matter with him quite frequently up until the—

Mr. WILSON.—I repeat my objection, if the Court please.

The COURT.—The objection is sustained.

Mr. RYAN.—Take an exception.

(Testimony of J. S. Dodson.)

Mr. McLAUGHLIN.—An exception. Q. When did you have a conversation with Mr. Schaefer with reference to cashing these warrants?

Mr. WILSON.—I repeat my objection to that question.

The COURT.—Same ruling. Sustained.

Mr. McLAUGHLIN.—Therefore, your Honor, we continue with our offer of proof. At this time, we offer to prove by the witness on the stand that shortly subsequent to taking over the Bank of Winslow by the Superintendent of Banks pursuant to statutes and under the supervision and control of the Superior Court of Navajo County, Arizona, the witness on the stand, as Special Deputy Superintendent of Banks, asked the County Treasurer to cash these warrants but was informed by the County Treasurer that as to these warrants there were no funds available, the warrants referred to being the registered warrants referred to heretofore frequently in this litigation.

Mr. WILSON.—If the Court pleases, I object to that as immaterial, and for the further reason that it now appears that the witness will testify to no such facts.

Mr. McLAUGHLIN.—I think that last statement is uncalled for, your Honor. There is no showing what the witness will testify to. He has not been allowed to testify.

Mr. WILSON.—Questions were asked him and he did not testify to any such fact.

The COURT.—Your question limits the time until after the 4th of October?

Mr. McLAUGHLIN.—After the 4th of October.

The COURT.—Objection sustained.

Mr. RYAN.—Take an exception.

Mr. McLAUGHLIN.—Except on our behalf.

The COURT.—You say you had some additional evidence to offer?

Mr. McLAUGHLIN.—If your Honor please, the defendants have some. Mr. Ryan has some to offer.

Mr. RYAN.—I have some documentary evidence here. I would like to have the Clerk mark this as an exhibit for identification, if you will.

The COURT.—Mark it the appropriate number of defendants—appropriate letter, I believe it is.

The CLERK.—I think it will be “E.” As one exhibit or are there two parts?

Mr. RYAN.—There are two sheets but it is all one current subject.

The COURT.—Mark it one exhibit.

The CLERK.—Defendant’s Exhibit “E.”

Mr. RYAN.—I am offering this Defendants’ Exhibit “E” for identification, which purports and is a published record of the proceedings of the Board of Supervisors of Navajo County and shows what purports to be adopted *budge*—finally adopted budget and estimated expenditure made by that county made pursuant I claim the law to be and published after adoption, as the law required it to be published. I offer this last paper—official publication exhibiting for itself.

(Testimony of A. T. Hammons.)

The COURT.—You offer it in evidence?

Mr. RYAN.—Yes.

Mr. WILSON.—Objected to as immaterial, if the Court pleases. We don't think this has anything to do with the issues in this case. The budget prepared by the Board of Supervisors does not indicate, nor does it prove, what was collected and on hand in the different funds on October 4, 1924, and our claims originate upon that date and because of the condition of the bank at that date and the condition of the Treasurer's office on that date as regards moneys in these different funds, I can't see the materiality of it for that reason and we object to it on that score.

(Argument.)

The COURT.—Objection is overruled. It may be admitted.

Mr. WILSON.—Exception.

The CLERK.—Correct that last offer to show it "D" instead of "E."

TESTIMONY OF A. T. HAMMONS, FOR DEFENDANTS.

A. T. HAMMONS, having been heretofore duly sworn, was called as a witness on behalf of the defendants and first duly sworn and testified as follows:

Direct Examination by Mr. McLAUGHLIN.

I testified last week that I took charge of the Bank of Winslow as Superintendent of Banks of

(Testimony of A. T. Hammons.)

the State of Arizona on October 4, 1924, and subsequent thereto filed in the Superior Court of Navajo County the inventory return required by statute. At the time that this suit was commenced, I was acting under the orders of the Superior Court of Navajo County. I am still acting in the same capacity with reference to the liquidation of the Bank of Winslow.

(Thereupon defendants rested.)

TESTIMONY OF GEORGE J. SCHAEFER,
FOR PLAINTIFF (RECALLED).

GEORGE J. SCHAEFER, having been heretofore duly sworn, was recalled for further examination on behalf of the plaintiff and testified as follows:

Direct Examination by Mr. WILSON.

Q. Mr. Schaefer, when you were on the witness-stand the other day, you testified, if I remember rightly, that the salary fund had nearly enough to take up all of the warrants then outstanding on October 4, 1924, but perhaps not quite enough. Do you desire to correct that testimony? A. I do.

Q. Will you state the facts as to that?

A. The only correction I have—

Mr. RYAN.—Just a moment. I object to the statement of this witness as to what those funds—what appeared by those funds. There is better evidence as to the condition of those funds than the memory of this witness.

Mr. WILSON.—If the Court please, the witness can certainly testify as to his own knowledge as to whether he had money enough on October 4, 1924, to meet all of the salary warrants outstanding. He must know what was the condition of his office at that time.

The COURT.—Doesn't he get that information from books, Mr. Wilson.

Mr. WILSON.—Yes, sir, but he must have first-hand knowledge of it as County Treasurer. It is his duty to know it.

Mr. McLAUGHLIN.—I believe, your Honor, that the records themselves would be the best evidence as to the state of the County Treasurer.

Mr. WILSON.—I am willing to put them in if your Honor insists but I think the—just get your records.

Mr. RYAN.—And the further objection to it, if your Honor please, is that it is immaterial what may appear to be a salary fund, because, under the present theory the law of the State of Arizona, there is no distinction between a salary fund and the expense fund and it appears from the testimony already in and from the books that the expense fund, which includes and covers salaries, expenses of offices and other things, was *forth* thousand odd dollars in the red on the 4th day of October, 1924, and no matter if he—

Mr. WILSON.—That is a question of law which your Honor is called upon to decide not at this time.

Mr. RYAN.—It is a question of law.

(Testimony of George J. Schaefer.)

The COURT.—That objection will be overruled.

Mr. McLAUGHLIN.—Note an exception on behalf of Hammons and Dodson.

Mr. RYAN.—An exception.

Mr. STOCKTON.—Does your Honor have in mind that the statute says that the salary claims are included within the expense fund?

Mr. WILSON.—It is a question of apportionment.

The COURT.—You may cross-examine as to that and if he testifies, you may call—

Mr. STOCKTON.—I reserve the right to my cross-examination, hoping we were going to get through without putting in any evidence.

(Witness produces books.)

Mr. WILSON.—Q. Now, Mr. Schaefer, you have the books of your office?

A. Yes, sir.

Q. Will you turn to your salary account. Will you state what your balance was on October 4, 1924?

Mr. STOCKTON.—If your Honor please, on behalf of the interveners, we object to a statement of the witness from his books with reference to a salary account, for the reason that the law does not provide that any designation or distribution shall be made in the form of salaries or moneys for salaries—accounts in general and I wish to call your Honor's attention to two paragraphs of our code in that connection. (Reading.)

(Argument.)

(Testimony of George J. Schaefer.)

The COURT.—Objection is overruled.

Mr. STOCKTON.—An exception, please.

Mr. RYAN.—An exception on the part of all the original defendants.

Mr. BARTH.—Exception on the part of intervenor Apache County.

Mr. WILSON.—Q. Will you state what was on that salary account on October 4, 1924, from your books?

Mr. STOCKTON.—We object to that on the further ground that it is calling for a conclusion of the witness as to that date. If he gives the specified dates of transfers to that fund and from what it was transferred, we would have no objection.

The COURT.—You will have an opportunity to ascertain that on cross-examination. The objection is overruled.

Mr. STOCKTON.—An exception, please.

Mr. RYAN.—An exception.

A. \$5,345.41.

Mr. WILSON.—Q. Now, Mr. Schaefer, have you examined your registration record for warrants and can you state from that examination whether on that date you had enough money to take up your salary warrants then outstanding?

Mr. RYAN.—I object to that. He is referring to a record which will be the best evidence of the existence of registered warrants.

The COURT.—Isn't there evidence in the case as to the amount of those warrants?

(Testimony of George J. Schaefer.)

Mr. STOCKTON.—No. That is the objection I was going to make, that is, that the amount of the outstanding warrants is an immaterial issue.

The COURT.—Salary warrants?

Mr. STOCKTON.—Yes. From which the Court will then determine. That is not in the record. We object to the question because it calls for a conclusion of the witness. We have no objection to his telling how many outstanding warrants there were.

(Argument.)

The COURT.—Overruled.

Mr. McLAUGHLIN.—Exception.

Mr. WILSON.—Q. Will you state whether, Mr. Schaefer, from your registration book you can compute the number of outstanding warrants, not including those pledged to you by the Bank of Winslow on October 4, 1924? Can that be done from your record?

Mr. STOCKTON.—We object to that question upon the grounds that it is immaterial whether he can compute them or not by excluding those pledged to him as Treasurer of Navajo County. The question, if it is material at all, must relate to all outstanding salary warrants.

The COURT.—He may compute those outside of those that were pledged and you can cross-examine him. Objection is overruled.

Mr. WILSON.—Q. Will you do that?

A. Here is the point—the reason for my correction, if I may explain it. I stated that there was

(Testimony of George J. Schaefer.)

over \$6,000.00 in salary warrants outstanding but in that I included fourteen hundred seventy some odd dollars of back salary warrants that were issued two or three years prior to my time and were in litigation in court at the time and my understanding at the time was that they were to be charged to the salary fund and I found later that there was to be a back salary fund and they were to be charged to that and I included those in these warrants and I wanted to correct it. My report shows that I charged to the general fund before those particular warrants for the back salary funds.

Mr. WILSON.—That is the situation. I am not very certain, under the circumstances, how I ought to proceed; I will put the registration book in and ask him the question and then it is a matter of computation for anybody. Of course, I will put in his computation.

The COURT.—You needn't introduce the book. You may read from it any entries.

Mr. WILSON.—It will take a long time to put them all in. There are a great many small items.

The COURT.—Oh, I see.

Mr. STOCKTON.—So far as we are concerned, we have no objection to the witness stating how many outstanding warrants unpaid there were on that date. We don't care about him taking up each individual one of them. Our objection was as to his conclusion as to what was in the fund.

A. Mr. Ryan can help me on that. I run a tape for Mr. Ryan last Tuesday of outstanding warrants

(Testimony of George J. Schaefer.)

other than those that the Bank of Winslow held and, if he can furnish such a tape, I can—

Mr. RYAN.—If you run such a tape for me, I don't remember it.

Mr. McLAUGHLIN.—I believe I have that. I am not sure that I have.

Mr. RYAN.—Q. Now, isn't it a fact—excuse me—isn't it a fact that that tape that you made in my office was amounts of warrants which were registered prior to October 4, 1924, and still outstanding as to date July 1, 1925?

A. Yes, sir.

Q. So that tape and no computation that you have made would be a basis of showing how many actual registered warrants on the salary fund were outstanding on October 4, 1924?

A. Yes, sir.

Q. You haven't computed it, have you?

A. I can tell from that tape within a very little amount, I imagine.

Q. Could you tell from the tape?

A. From that tape that we run off the other day.

Q. Well, that tape and that computation included those that remained outstanding in July, 1925, and still unpaid?

A. Yes, sir, because I did not take up any after that, because of the shortage of money due to bank failure. They stayed outstanding until we floated a bond issue.

Mr. RYAN.—If your Honor please, it may take some time but it is material in this case. It is a

(Testimony of George J. Schaefer.)

material feature in this case as to the total number of outstanding warrants of Navajo County at the time this bank failed. If there is any book here, I would like to be permitted to insist upon strict proof according to the records which the law requires the County Treasurer to make and keep of registered warrants. It requires him to keep a warrant register in which the dates, numbers and amounts are registered in the order of presentation.

The COURT.—Q. Do you have that record, Mr. Schaefer?

A. Yes, sir.

Q. Can you produce it, can you not?

Mr. WILSON.—It is right here.

A. Yes, sir.

The COURT.—Q. How long will it take you?

A. To list them and all?

Mr. STOCKTON.—Read them into the record.

A. It will take quite a while.

Mr. WILSON.—You will make a record two days long.

The COURT.—Can't you gentlemen examine that and stipulate as to that?

Mr. RYAN.—We have tried to examine it at one time, if your Honor please, and the items are marked up and when you get down to, as we sometimes say, brass tacks, the books don't show and the witness don't know at the particular time when these warrants were paid or registered.

Mr. WILSON.—If the Court please, I take objection or exception to that remark. The point

is there is outstanding certain warrants of the Bank of Winslow and they have been offered in evidence. There are certain warrants in the hands of the treasurer of Apache County and they are here, although the list has been admitted all of the way through as being a true list without the original warrants.

Mr. BARTH.—I object—

Mr. WILSON.—Just a minute.

Mr. BARTH.—If the Court please, to being admitted—

The COURT.—I can't hear you both at once. Let him finish and then I will hear you.

Mr. WILSON.—What I mean is that they have attached to their own pleading a copy of all of those warrants. Therefore, they can't deny that they have them. Now, the point is that outside of those held by the Bank of Winslow or pledged to Navajo or Apache County, there seems to have been very few warrants, and so far as the witness is concerned, I assume he would have very little trouble in digging those others out. All of the rest of them are in here and he could take out all of those that are not in evidence or in the record now in a very short while, if it is required. My own view of that was that it was not going to be required, because we had practically gone over this record in the afternoon the day that we come on in beautiful Phoenix. It was admitted that there were no doubt about certain figures and as regards the salary figure, that was slightly erron-

(Testimony of George J. Schaefer.)

eous. His testimony is correct as regards that particular item except that he said \$6,000.00 instead of \$5,000.00 and he wanted to correct it and I am putting him here for that purpose.

Mr. RYAN.—If your Honor please, might I suggest, before any computation be made that we be permitted to examine the witness as to what his so-called warrant book from which that computation is to be made does and does not show as a matter of definite record?

The COURT.—Yes, you may examine it in his presence.

Mr. RYAN.—I mean, for the record, before we go into having some computation made by the witness from the book.

The COURT.—Yes, you may do that. I want to suggest to you that you had better finish this matter before to-morrow night, because if you don't, you won't have any Court here to take care of it.

The COURT.—Q. Mr. Schaefer, turn to your salary register. Do you keep that registry-book with respect to separate funds?

A. Yes, sir.

Q. Now, from what date of start to what date of finish does this book that you call the warrant register cover? A. July 1923.

Q. This particular salary fund, confine it to that one.

A. September, 1925.

Q. Commencing at the beginning of the entries

(Testimony of George J. Schaefer.)

on this book, there were some registered—there were some registry warrants—some warrants outstanding that were carried along from 1923—I think you said that to-day? A. Yes, sir.

Q. In your explanation. Now, turn to the time that you paid those warrants and read into the record what entries you have made with respect to that payment. A. What?

Q. You say that you have refreshed your memory and changed your testimony since you were on the stand first?

A. Yes, but I don't get your question, Mr. Ryan. If I have to have an attorney in here to protect me in your questions, I am going to get one. I don't like to be booped on the stand like this.

Q. You say you made a mistake in your figures the other day because of the fact that there was some 1923 warrants that had been carried along, and in your testimony the other day you did not know what disposition and you found that they had been paid?

The COURT.—Warrants that were in litigation.

A. There were older warrants in litigation. They were considered back salary warrants and I had never seen them but I knew there were some salary warrants that were in the court.

Q. Where do those warrants appear upon that record?

A. I don't know. It is far before my time.

(Testimony of George J. Schaefer.)

Mr. WILSON.—He has already testified it was, before his time and that book starts on July, 1923.

Q. Now, back at the first warrant that appears registered in this book, that is your time, is it not, this book? A. Yes, right there.

Q. What is that item? A. Warrant No. 2317.

Q. How much?

A. Treasurer's No. 1 for \$75.05.

Q. Does it show when that was paid?

A. Yes, sir, paid May 10, 1924.

Q. Now, the next five warrants, does this show when they were paid? A. Same date.

Q. This other item here is simply marked paid. Read that item across—I mean here—see.

The COURT.—These are all salary warrants?

A. Yes, sir. It reads Warrant No. 3212, Register No. 9, in the amount of \$75.00.

Mr. RYAN.—Q. That is marked paid. Is there anything in the books to indicate when it was paid?

A. Only by my cash book is the only way I can prove that.

Q. Now, there is two other items on that same page 32 are the only indication with respect to warrants that they are paid; is that not true?

Mr. WILSON.—If the Court please, I can't see the materiality of this line of questioning. Those warrants that he says he is pointing out now are not involved in this case. They are paid and, regardless of whatever records he made of that fact, they are not involved in this case.

(Testimony of George J. Schaefer.)

The COURT.—Q. When does the record show they were paid?

A. There is a few just plainly marked paid here.

Mr. RYAN.—May I show this book to your Honor?

A. And no date. The date is not in there. We work by the cash-book.

The COURT.—Q. You can't tell by this book?

A. No, sir.

Mr. RYAN.—They are marked paid. There is no record.

Mr. WILSON.—It is marked paid. What is the materiality of it, may I ask, if the Court please? He is making a large point out of the fact when there is no date in there when he has records in his office which would prove the date. That is not material if it is paid and it appears in his record they are paid and that is the ultimate fact.

Mr. RYAN.—Q. Now, I call your attention to Warrants No. 2330, 2319, 2318, 2310, 2336, 2308, 2324, 2326, and ask you whether or not from the book before you those warrants do not still appear to be outstanding?

A. They were with the Bank of Winslow when they quit.

Q. How do you know they were with the Bank of Winslow?

A. I know those particular warrants that you

(Testimony of George J. Schaefer.)

have had listed here were in among those warrants.

Q. There is no evidence on the book to show where they are located, is there?

A. No—yes, it does—Merchants and Stock Growers Bank. That is the Holbrook branch of the Bank of Winslow.

Q. What is the situation with reference to the next page? There are a lot of warrants marked paid on page 33 and no date of payment appears, is there not? A. Yes, sir.

Q. And the same appears on page 34—there are several warrants there that—Union Bank & Trust Co.—do you know when you paid those warrants?

A. Not from this record I do not.

Q. Now, on page 35 there is no date at all as to the time you paid any warrants? A. No, sir.

Q. And the first fourteen warrants appear unpaid, do they not? A. Yes, sir.

Q. Page 36, there is no entry of warrants paid, with no date as to when they were paid?

A. No, sir.

Q. Then, as a matter of fact, you cannot compute from that book the amount of warrants outstanding and unpaid against the salary fund independent of your memory, now. I am asking you from the book itself?

A. I am trying to figure out whether I can or not. Not accurately, I can't.

Q. Not accurately? A. Not from this alone.

The COURT.—Q. But you can from that—

(Testimony of George J. Schaefer.)

A. I use a cash-book in connection with this.

Q. Is that here? A. No, sir.

Mr. RYAN.—I move to strike from the record all testimony of this witness relative to the warrants outstanding on the date October 4, 1924.

The COURT.—You can't say definitely what was outstanding?

A. I can from these lists that were put in evidence. I have testified to those lists previous to this time.

Mr. WILSON.—If the Court please, I might state that the list which was compiled as a true copy of his records was introduced and offered without any objection and it is in evidence now. Those were three records, dividing the various ones 1, 2, 3, 4 and they are already in the record as regards those which are outstanding or were outstanding on October 4, registered from October 4, 1923 to October 4, 1924, and that record of those outstanding is what he testified to and that has been the basis of the subsequent—

Mr. STOCKTON.—May I ask a question, Mr. Wilson?

Mr. WILSON.—Yes.

Mr. STOCKTON.—Q. The list that you referred to do not pretend to show the outstanding warrants but only those that were outstanding and involved in this litigation?

Mr. WILSON.—To-day?

(Testimony of George J. Schaefer.)

Mr. STOCKTON.—The list that you referred to do not pretend to show a list of all the outstanding warrants?

Mr. WILSON.—No.

Mr. STOCKTON.—Only a list of those that are involved in this litigation?

Mr. WILSON.—These lists contain all, whether or not held by the Bank of Winslow, if I am correct—I think I am correct in that.

Mr. RYAN.—Yes, but with due respect, it says lists of warrants unpaid May 25, 1925. No evidence as to what was—that, that is—

Mr. WILSON.—Warrants issued by Navajo County, Arizona, on expense fund registered October 4, 1923, to October 4, 1924, unpaid on May 25, 1925. We do not go back to October 4, 1924, and these show the list that were unpaid at any subsequent date. It may have been any other date but it only shows those that were registered prior to October 4, and which were then outstanding. That is all.

(Argument continued.)

Mr. STOCKTON.—I should like to ask the witness just one question, if I may, which I think would elicit the whole situation.

A. Mr. Schaefer, Plaintiff's Exhibit 162 in evidence, which I hold in my hands, says, under a column designated "Held by," a lot of initials, I will ask you if every single one of them does not refer to the Bank of Winslow or some of its branches?

(Testimony of George J. Schaefer.)

A. Except the first item. That is an original—Arizona State. With the exception of the first one, which is the Arizona State, which later become a part of the Bank of Winslow.

Q. Then all of the warrants shown by Plaintiff's Exhibit 2 are warrants which on October 4, 1924, was held by the Bank of Winslow?

A. Yes.

Q. And there is not shown on Plaintiff's Exhibit 162 in evidence warrants theretofore issued and registered and outstanding held by any other party, is there? A. No.

Q. There were other warrants? A. Yes.

Mr. STOCKTON.—Now, if the Court please, that is typical, as I understand the—

A. I don't know. I think I checked that the other day. I don't know whether I found any other or not.

(Argument by counsel.)

Mr. WILSON.—May I expedite this a little bit, if the Court please? We will agree that Mr. Schaefer and counsel may take this registration book and check it off and see how many warrants there were outside of those that are in the record in this warrant book. I doubt if they find any except in the salary fund.

The COURT.—And the total amount of them, is that what you want?

Mr. WILSON.—The total amount.

(Testimony of George J. Schaefer.)

Cross-examination by Mr. McLAUGHLIN.

We occasionally omit one of the registered warrants on the warrant register. We register a warrant and fail to record it. There are some registered warrants, to my knowledge, that are not entered in this warrant register. I know of about six that I saw on my desk the other day. There are two entered in the wrong name and four omitted. They are all registered but not entered—I can vouch for the verity of the warrant register by my own check. If I took this blue-print of mine and those two, my cash proves the date of payments. I do not have the cash record with me. And I don't want to be understood at this time as stating that the warrant register is absolutely correct.

Mr. McLAUGHLIN.—Then, if your Honor please, we believe that subject to the objection that it is incompetent. It is unreliable. It is not a correct set of books and we move to strike all of the evidence of this witness bearing upon this set of books, which are admittedly unreliable.

The COURT.—Q. Have you seen the warrants that are omitted?

A. Yes, sir.

Q. All of them?

A. I think so. I made a more correct and an absolute accurate list, I think, in July, which included all of these.

Q. Where is it?

(Testimony of George J. Schaefer.)

A. Right on that desk over there.

The COURT.—I am not going to waste my time sitting here listening to this. If you can get together and look those records over and stipulate and agree to anything, very well, why, come in and thresh it out.

(Argument between Court and counsel.)

The COURT.—It is a question of whether or not it was appropriated to the salary account properly. It don't make any difference to me whether the money was in the Bank or not but whether or not this particular fund has been properly handled.

Mr. STOCKTON.—We want to find out, as far as we are concerned, by what process the fund—

The COURT.—As far as set-off is concerned, it is the depositary money in the bank that could be set off as against the warrants.

Mr. BARTH.—Why, I think not. I think that in addition to that—

The COURT.—I think you will find that the judgment of this Court will go to that extent.

Mr. BARTH.—Regardless of whether he had any money there?

The COURT.—Regardless of whether the money was there in the bank or not. If he deposited the money in the bank, even at that time when the bank failed and it was not a day there.

Mr. BARTH.—Then, the Court would rule that it was available if he had deposited it? Now this is our view—

The COURT.—It is available for set-off.

(Argument of counsel.)

Mr. WILSON.—Now, if your Honor please, with that statement, we will specifically state for the record that so far as we are concerned we are content with the proof, because it shows that these warrants are already in evidence and it shows from his books funds that could be offset against those warrants. Now, that is all there is.

Mr. STOCKTON.—You are withdrawing the witness, then, are you?

Mr. WILSON.—We don't care one way or the other. I wanted to give the witness a chance to correct himself.

THEREUPON, at the hour of 4:55 P. M., the court took recess, and at the hour of 9:45 A. M., January 12, 1926, counsel being present, the following proceedings were had:

The COURT.—Gentlemen, in the Bank of Winslow, the question of the right of set-off, it won't take you long to submit that and without any lengthy arguments? I think I am interested in knowing what the duties of the receiver are in adjusting the affairs of the county and bank—County of Navajo—if it is his duty to offset against the deposits of warrants held by the bank.

Mr. WILSON.—We are prepared to argue and I think I can submit it in twenty minutes.

Mr. STOCKTON.—I should like to say this, if your Honor please, as far as we are concerned, an examination of these records, going over it

with Mr. Schaefer, discloses to our satisfaction that while there is an apparent overdraft from the general expense account, it is one that was inherited by him—one that has been reduced by him during his administration and, in the expense account as it would effect any moneys in the hands of Navajo County, he has received more money property distributed to the expense account than he has paid out of the expense account, so that we do not care to further pursue the cross-examination indicated last evening.

The COURT.—How about the other defendants?

Mr. STOCKTON.—An examination of this record shows that he receipts for more money.

The COURT.—How about the other defendants? Do they care to go into that? We will take up these arguments now.

(Arguments.)

The COURT.—Now, Mr. Wilson, the question of the right of receiver, what are the receiver's duties in adjusting the affairs?

(There was then some discussion and argument by Court and counsel, as to the rights of the interveners, with which the appellants herein are not concerned.) Thereupon all parties rested.

It is further stipulated and agreed at the time of the trial of the case and thereafter, which stipulation does not appear in the transcript of evidence, that the actual amount of school warrants as shown by the evidence was Six Thousand, Three Hundred Thirteen and 38-100 (\$6,313.38) Dollars, notwithstanding any discrepancy between these fig-

ures and those shown by a computation of the list of school warrants and the warrants produced by the Superintendent of Banks at the time of trial.

PLAINTIFF'S EXHIBIT No. 1.

SCHOOL WARRANTS.

GENERAL FUND.

Warrant No. 61.

Holbrook, Arizona, September 6, 1924.

THE TREASURER OF NAVAJO COUNTY:

Pay to the order of Bank of Winslow, \$366.66, THREE HUNDRED SIXTY-SIX and 66-100 DOLLARS, and charge to School District No. 1, on account of teaching in said School District. This warrant shall draw interest at the Rate of% from the date this warrant is marked NO FUNDS BY THE COUNTY TREASURER.

Signed, KATE V. KINNEY,
County School Superintendent.

NOTE:—Interest on this Warrant shall stop when the County Treasurer has given notice that there are funds to the credit of this School District for payment of this Warrant.

School Warrant Navajo County, Arizona.

Exhibit No.	Date	Payee	School District No.	Reg. Date	Amount
2	9-29-24	Holbrook Breh. B. of W.	3	10- 2-24	\$345.00
3	9-30-24	Holbrook Breh. B. of W.	16	10- 2-24	4.70
4	9-30-24	Holbrook Breh. B. of W.	7	10- 2-24	140.00
5	9- 4-24	Holbrook Breh. B. of W. Union High		9- 7-24	10.00
6	9-27-24	Chas. F. Hansen	11	9-29-24	150.00
7	8-20-24	Holbrook Breh. B. of W.	3	8-22-24	829.00
8	9-13-24	Holbrook Breh. B. of W. Union High		9-16-24	97.10
9	9-19-24	Bank of Winslow	1	9-29-24	19.50
10	8-20-24	Holbrook Breh. B. of W.	10	8-23-24	18.00
11	8-25-24	Holbrook Breh. B. of W.	2	8-30-24	47.30
12	9-13-24	Holbrook Breh. B. of W.	10	9-16-24	91.05
13	9-16-24	Holbrook Breh. B. of W.	3	9-19-24	150.00

Exhibit No.	Date	Payee	School District		Amount
			No.	Reg. Date	
14	9-19-24	Bank of Winslow	1	9-20-24	15.00
15	9-16-24	Bank of Winslow	1	9-18-24	15.00
16	9-16-24	Bank of Winslow	1	9-18-24	177.23
17	9-29-24	Bank of Winslow	1	10- 3-24	2102.32
18	9-30-24	Bank of Winslow	1	10- 3-24	120.00
19	9-30-24	Bank of Winslow	1	10- 3-24	154.80
20	9-13-24	Bank of Winslow	1	9-17-24	25.80
21	9-13-24	Bank of Winslow	1	9-17-24	280.00
22	9- 6-24	Cooley Lumber Co.	10	9-11-24	86.26
23	8- 2-24	Public School Pub. Co.	5	8-23-24	36.09
24	9-10-24	D. G. Younkin	3	9-15-24	250.00

PLAINTIFF'S EXHIBIT No. 25.

The Board of Supervisors, Navajo County.

No. 1396.

Holbrook, Arizona, August 30, 1924.

THE TREASURER OF NAVAJO COUNTY.

Will pay to the order of L. B. Owens, \$75.00,
Seventy-five and no-100 Dollars, in payment of
Claim No. 1396, for last half August, and charge to
Road Fund.

Signed, C. E. OWENS,

Chairman, Board of Supervisors.

Signed, WALLACE ELLSWORTH,

Clerk, Board of Supervisors.

Exhibit No.	Date	Payee	Reg. Date	Amount
26	9-15-24	L. B. Owens	9-17-24	\$ 75.00
27	9-15-24	F. B. Gardner	9-17-24	75.00
28	9- 3-24	C. L. Rhoton	9-17-24	4.00
29	9- 3-24	Liona Penrod	9-20-24	35.00
30	9- 3-24	Old Trails Garage	9-29-24	1.50
31	9- 3-24	Carduff Transfer Co.	9- 9-24	10.00
32	9- 3-24	W. J. Larson	9-17-24	8.00
33	9-30-24	L. B. Owens	10- 2-24	75.00
34	9-15-24	A. T. & S. F. R. R. Co.	9-20-24	36.00
35	9- 3-24	Louis E. Johnson	9-29-24	19.25
36	9- 3-24	J. W. Nikolaus	9-15-24	45.00
37	9- 3-24	John T. Flake	9-13-24	28.00
38	9- 3-24	John T. Flake	9-13-24	27.00
39	9- 3-24	Wayne Larson	9-13-24	25.00
40	9- 3-24	S. P. Fish	9- 4-24	23.80

Exhibit No.	Date	Payee	Reg. Date	Amount
41	9- 3-24	Chas. H. Turley	9- 9-24	28.00
42	9- 3-24	Standard Oil Co.	9-11-24	54.03
43	9- 3-24	Union Oil Co.	9-11-24	97.37
44	9- 3-24	Wayne Webb	9-12-24	50.00

PLAINTIFF'S EXHIBIT No. 96.

ROAD FUND WARRANTS.

No. 2614.

SALARY WARRANT.

Office of

Board of Supervisors, Navajo County, Ariz.

Holbrook, Arizona, September 30, 1924.

TREASURER OF NAVAJO COUNTY:

Pay to the Order of J. E. Crosby, Sixty-two and 50-100 Dollars, \$62.50, in payment of Salary Demand No. 7, audited and allowed by the Board of Supervisors, September 3, 1924.

Signed, C. E. OWENS,

Chairman of the Board of Supervisors.

Signed, WALLACE ELLSWORTH,

Clerk of the Board of Supervisors.

Reg. Date October 4, 1924.

Exhibit No.	Date	Payee	Reg. Date	Amount
97	9-30-24	Geo. Woolford	10- 4-24	\$ 37.50
98	9-30-24	Harvey Ballard	10- 4-24	3.50
99	9-30-24	Jno. L. Fish	10- 3-24	8.00
100	9-30-24	Fred Williams	9-30-24	30.00
101	9-30-24	L. D. Divelbess	10- 2-24	125.00
102	9-30-24	O. C. Williams	10- 1-24	75.00
103	8-30-24	Jno. L. Fish	9- 9-24	4.00
104	8-30-24	F. W. Freeman	9- 7-24	7.50
105	9-15-24	Harvey Smithson	9-20-24	2.00
110	9-30-24	L. F. McClanahan	9-27-24	32.50
111	8-30-24	Harvey Ballard	9-15-24	3.50
112	9-15-24	W. C. Williams	9-16-24	75.00
113	9-15-24	G. T. West	9-16-24	125.00
114	9-15-24	J. E. Crosby	9-16-24	62.50
115	8-30-24	C. C. Williams	9- 4-24	75.00

Exhibit No.	Date	Payee	Reg. Date	Amount
116	8-30-24	L. D. Divelbess	9- 4-24	125.00
117	8-30-24	D. W. Easley	9- 4-24	41.67
118	7-31-24	N. W. Petersen	9- 9-24	4.00
119	8-30-24	Willard Whipple	9- 9-24	5.00
120	8-30-24	G. W. Woolford	9- 9-24	37.50
121	8-30-24	N. W. Peterson	9-11-24	4.00
122	8-15-24	Jos. L. Peterson	9-11-24	4.00
123	8-15-24	R. L. Ison	8-30-24	4.00
124	8-30-24	J. W. Crosby	8-30-24	62.50
125	8-15-24	D. W. Easley	8-30-24	41.67
126	8-15-24	J. W. Freeman	8-30-24	7.50
127	8-15-24	W. B. Porter	8-29-24	2.00
128	8-15-24	Harvey Ballard	8-26-24	3.50
129	7-15-24	Harvey Smithson	8-26-24	2.00
130	8-15-24	Jos. L. Peterson	8-23-24	4.00
131	8-15-24	C. W. Owens	8-20-24	50.00

Exhibit No.	Date	Payee	Reg. Date	Amount
132	8-15-24	J. L. Fish	8-20-24	4.00
133	9-15-24	Harvey Ballard	9-19-24	3.50
134	9-15-24	Fred Williams	9-19-24	30.00
135	9-15-24	L. D. Divelbess	9-17-24	125.00
136	9-15-24	Thorwald Larson	9-17-24	83.34
137	9-15-24	D. W. Easley	9-17-24	41.67
138	8-30-24	L. H. Brewer	9- 9-24	1.25
139	8-30-24	J. W. Bazell	9- 5-24	25.00
140	8-30-24	Sam W. Proctor	9- 5-24	41.67
141	8-30-24	J. E. Walker	9- 3-24	100.00
142	8-30-24	L. C. Henning	9- 3-24	75.00
143	8-30-24	Thorwald Larson	9- 4-24	83.34
144	8-30-24	W. G. Payne	9- 4-24	41.67
145	9-15-24	Sam W. Proctor	9-19-24	41.67
146	8-15-24	Sam W. Proctor	9-19-24	41.67
147	9-15-24	L. C. Henning	9-18-24	75.00

Exhibit No.	Date	Payee	Reg. Date	Amount
148	9-15-24	W. G. Payne	9-17-24	41.67
149	9-15-24	J. W. Walker	9-17-24	100.00
150	8-15-24	L. H. Brewer	8-22-24	1.25
151	9-30-24	L. C. Henning	10- 3-24	75.00
152	9-30-24	J. W. Walker	10- 2-24	100.00
153	8-30-24	W. B. Porter	9-17-24	2.00
106	9-15-24	J. T. Cooper	9-20-24	5.00
107	9-15-24	Geo. Woolford	9-20-24	37.50
108	9-15-24	R. L. Ison	9-20-24	4.00
109	8-30-24	R. O. Ison	9-20-24	4.00

PLAINTIFF'S EXHIBIT No. 154.

Marked for Identification only. Case No. E.-93,
Prescott. Admitted and filed Jan. 7, 1926.

GEORGE J. SCHAEFER,
Treasurer.

Office of

TREASURER OF NAVAJO COUNTY
EX-OFFICIO TAX COLLECTOR, HOLBROOK,
ARIZONA.

Holbrook, Arizona, April 23, 1923.

Receipt for bonds: Received of the Arizona State
Bank of Winslow, Arizona, Thirty-five (35) Im-
provement bonds of the Town of Winslow, following
numbers and amounts.

Bond Number 2.....	\$ 500.00
Bond Number 3.....	500.00
Bond Number 4.....	500.00
Bond Number 5.....	168.84
Bond Number 6.....	500.00
Bond Number 7.....	500.00
Bond Number 8.....	500.00
Bond Number 9.....	500.00
Bond Number 10.....	168.85
Bond Number 11.....	500.00
Bond Number 12.....	500.00
Bond Number 13.....	500.00
Bond Number 14.....	500.00
Bond Number 15.....	168.84

Bond Number 16.....	500.00
Bond Number 17.....	500.00
Bond Number 18.....	500.00
Bond Number 19.....	500.00
Bond Number 20.....	168.85
Bond Number 21.....	500.00
Bond Number 22.....	500.00
Bond Number 23.....	500.00
Bond Number 24.....	500.00
Bond Number 25.....	168.84
Bond Number 26.....	500.00
Bond Number 27.....	500.00
Bond Number 27.....	500.00
Bond Number 28.....	500.00
Bond Number 29.....	500.00
Bond Number 30.....	168.85
Bond Number 31.....	500.00
Bond Number 32.....	500.00
Bond Number 35.....	168.84
Bond Number 40.....	168.85
Bond Number 45.....	168.84
Bond Number 50.....	168.85

\$14,188.45

To be held security on County Deposits.

GEORGE J. SCHAEFER,

Treasurer.

PLAINTIFF'S EXHIBIT No. 155.

Marked for Identification only. Case No. E.-93.
Admitted and filed Jan. 7, 1926.

Winslow, Arizona, August 3, 1923.

Received of The Bank of Winslow, Winslow, Arizona, the following Registered School Warrants, to be held as guarantee for Navajo County funds deposited in The Bank of Winslow:

School District No. 1, Wrt. No. 151.....	\$1,015.06
School District No. 1, Wrt. No. 157.....	281.23
School District No. 1, Wrt. No. 158.....	660.50

\$1,956.79

GEORGE J. SCHAEFER,
Navajo County Treasurer.

Returned 3-28-24.

PLAINTIFF'S EXHIBIT No. 156.

Marked for Identification only. Case No. E.-93,
Prescott. Admitted and filed Jan. 7, 1926.

INDIGENT WARRANTS:

No.	Register No.	Date	Amount
0123	25	8- 8-23	\$ 8.00
0126	23	8- 8-23	15.00
0132	25	8- 8-23	10.00
0140	36	9- 5-23	15.00
105	4	7- 5-23	8.00
108	5	7- 5-23	15.00

BOARD OF SUPERVISORS WARRANTS:			
No.	Register No.	Date	Amount
884	179	3- 3-24	75.00
867	180	3- 3-24	25.00
880	182	3- 3-24	3.00
832	183	2- 4-24	5.00
1131	145	3- 3-24	35.00
1112	149	3- 3-24	105.00
1129	150	3- 3-24	16.00
864	198	3- 3-24	14.10
856	199	3- 3-24	341.42
1132	170	3- 3-24	21.00
1148	171	3- 3-24	91.00
469	21	7- 5-23	26.30
488		8- 6-23	52.00
624	156	10-16-23	150.00
614	155	10-16-23	29.38
615	154	10-16-23	14.92
553	153	9- 5-23	47.31
583	152	10-16-23	23.75
731	48	8- 8-23	10.55
747	51	8- 8-23	8.05
505	74	8- 8-23	7.62
490	75	8- 6-23	10.00
547	104	9- 5-23	18.20
564	106	9- 5-23	9.30
788	78	9- 5-23	1.20
823	124	10-16-23	8.00

BOARD OF SUPERVISORS SALARY WARRANTS:

No.	Register No.	Date	Amount
2316	71	7-31-23	41.67
2329	21	7-31-23	112.50
2357	70	8-14-23	41.67
2369	33	8-14-23	112.50

SCHOOL WARRANTS:

7	71	7-18-23	103.15
25	79	8- 9-23	874.35
77	125	9-13-23	3.00
41	86	8-29-23	19.00
51	104	9- 8-23	1.80
79	124	9-13-23	8.00
26	80	8- 9-23	1.75
42	87	8-29-23	.75
78	126	9-13-23	300.00

\$2,839.24

Receipt is hereby acknowledged of the above registered warrants which are to be held by the Navajo County Treasurer as a guarantee of funds deposited in The Bank of Winslow.

GEORGE J. SCHAEFER,
Navajo County Treasurer.

PLAINTIFF'S EXHIBIT No. 157.

Marked for Identification only. Case No. E.-93,
Prescott. Admitted and filed Jan. 7, 1926.

GEORGE J. SCHAEFER,
Treasurer.

Office of

TREASURER OF NAVAJO COUNTY
EX-OFFICIO TAX COLLECTOR, HOLBROOK,
ARIZONA.

October 18, 1923.

Mr. Chas. F. Oare, Cashier.
Arizona State Bank,
Winslow, Arizona.

Dear Charlie:

This is to acknowledge receipt of Twenty-five hundred eighty-three dollars and thirty seven cents, (\$2,580.37) in registered County Warrants mailed to this office as security on County Deposits in your bank.

Hoping I may find my way clear to sweeten my deposit in the next few days, I am,

Yours truly,
GEORGE J. SCHAEFER.

PLAINTIFF'S EXHIBIT No. 158.

Marked for Identification only. Case No. E-93,
Prescott. Admitted and filed Jan. 7, 1926.

THE BANK OF WINSLOW.

Established July, 1910

Winslow, Arizona,

March
Seventeenth,
1924.

Mr. Geo. Schaefer, Treasurer,
Holbrook, Arizona.

Dear George:

We are enclosing herewith registered warrants as per list enclosed, aggregating \$2,839.24. These you will kindly hold as a guarantee of County funds deposited in The Bank of Winslow and return to us the Panama Canal Bond for \$1,000.00. Also kindly sign the enclosed receipt and hold the copy for your records.

Yours very truly,

B. B. NEEL,
Vice-President.

EBN-AJ

Canal Bond No. 41243.

PLAINTIFF EXHIBIT No. 160.

Marked for Identification Only. Case No. E-93,
Prescott. Admitted and Filed January 7, 1926.

WARRANTS ISSUED BY NAVAJO COUNTY
ON SALARY FUND.

Registered October 4, 1923 to October 4, 1924.

Wnt. No.	Treas. No.	Date Issued	Date Registered	Issued to	Held by	Amount
2458	93	7-16-24	7-16-24	G. T. West	M&SGB	\$125.00
2449	94	7-16-24	7-16-24	O. C. Williams	M&SGB	75.00
2457	95	7-16-24	7-16-24	D. Brinkerhoff	M&SGB	30.00
2446	96	7-15-24	7-17-24	C. G. Payne	BWW	41.67
2442	97	7-15-24	7-17-24	L. C. Henning	BWW	75.00
2453	98	7-15-24	7-17-24	T. Larson	M&SGB	83.34
2461	99	7-15-24	7-17-24	L. F. McClanahan	M&SGB	23.33
2448	100	7-15-24	7-17-24	L. D. Divelbess	M&SGB	125.00
2451	101	7-15-24	7-18-24	J. E. Walker	BWW	100.00
2431	102	6-30-24	7-13-24	J. T. Cooper	M&SGB	5.00
2436	103	6-30-24	7-10-24	Harvey Ballard	M&SGB	3.50
2440	104	7-15-24	7-18-24	J. E. Crosby	BWW	62.50
2444	105	7-15-24	7-20-24	C. E. Owens	BWW	50.00
2473	107	7-15-24	7-20-24	L. H. Brewer	M&SGB	1.25
2450	108	7-15-24	7-22-24	Geo. Woolford	M&SGB	37.50
2459	109	7-15-24	7-22-24	Sam Proctor	BWW	41.67

Wnt.	Treas.	Date	Registered	Issued to	Held by	Amount
2470	110	7-15-24	7-23-24	Harvey Ballard	M&SGB	3.50
2466	111	7-15-24	7-23-24	J. T. Cooper	M&CGB	5.00
2463	112	7-15-24	7-23-24	J. O. Freeman	M&SGB	7.50
2467	113	7-15-24	7-26-24	Jos. L. Peterson	BWW	4.00
2495	115	7-31-24	7-31-24	L. F. McClanahan	BWW	32.50
2480	116	7-31-24	8- 1-24	C. G. Payne	BWW	41.67
2485	117	7-31-24	8- 1-24	J. E. Walker	BWW	100.00
2460	121	7-15-24	8- 1-24	D. W. Easley	BWW	41.67
2494	122	7-31-24	8- 1-24	D. W. Easley	BWW	41.67
2474	123	7-31-24	8- 1-24	J. E. Crosby	BWW	62.50
2476	126	7-31-24	8- 2-24	L. C. Henning	BWW	75.00
2501	127	7-31-24	8- 2-24	J. L. Peterson	BWW	4.00
2483	128	7-31-24	8- 2-24	O. C. Williams	BWW	75.00
2492	132	7-31-24	8- 2-24	G. T. West.	M&SGB	125.00
2497	133	7-31-24	8- 7-24	J. O. Freeman	M&SGB	7.50
2499	134	7-31-24	8- 7-24	E. T. Hatch	M&SGB	5.00

Wnt.	Treas.	Date Issued	Date Registered	Issued to	Held by	Amount
2491	135	7-31-24	8-7-24	D. Brinkerhoff	M&SGB	30.00
2487	136	7-31-24	8-6-24	T. Larson	M&SGB	83.34
2500	137	7-31-24	8-5-24	J. T. Cooper	M&SGB	5.00
2484	138	7-31-24	8-3-24	Geo. Woolford	M&SGB	37.50
2493	147	7-31-24	8-12-24	Sam Proctor	BWW	41.67
2505	149	7-31-24	8-10-24	Harvey Ballard	M&SGB	3.50
2526	151	8-15-24	8-17-24	D. Brinkerhoff	M&SGB	30.00
2522	152	8-15-24	8-17-24	T. Larson	M&SGB	83.34
2518	153	8-15-24	8-17-24	O. C. Williams	M&SGB	75.00
2530	154	8-15-24	8-17-24	L. F. McClanahan	M&SGB	32.50
2509	155	8-15-24	8-17-24	J. E. Crosby	M&SGB	62.50
2506	156	8-15-24	8-17-24	Harvey Smiston	M&SGB	2.00
2508	157	8-15-24	8-14-24	L. H. Brewer	M&SGB	1.25
2503	158	8-15-24	8-15-24	R. L. Ison	M&SGB	4.00
2468	159	8-15-24	8-15-24	R. L. Ison	M&SGB	4.00
2434	160	8-15-24	8-15-24	R. L. Ison	M&SGB	4.00
2531	161	8-15-24	819-24	J. W. Bazell	BWW	25.00

Wnt.	Treas.	Date Issued	Date Registered	Issued to	Held by	Amount
2511	162	8-15-24	8-16-24	L. C. Hemming	BWW	75.00
2520	163	8-15-24	8-16-24	J. E. Walker	BWW	100.00
2515	164	8-15-24	8-16-24	C. G. Payne	BWW	41.67
2536	171	8-15-24	8-23-24	Jos. L. Peterson	BWHOL	4.00
2543	172	8-15-24	8-22-24	L. H. Brewer	BWW	1.25
2471	173	7-15-24	8-26-24	Harvey Smiston	BWHOL	2.00
2542	182	8-15-24	8-29-24	A. B. Porter	BWHOL	2.00
2538	184	8-15-24	8-30-24	R. L. Ison	BWHOL	4.00
2532	185	8-15-24	8-30-24	J. O. Freeman	BWHOL	7.50
2529	186	8-15-24	8-30-24	D. W. Easley	BWHOL	41.67
2544	187	8-30-24	8-30-24	J. E. Crosby	BWHOL	62.50
2546	194	8-30-24	9- 3-24	L. C. Henning	BWW	75.00
2555	195	8-30-24	9- 3-24	J. E. Walker	BWW	100.00
2550	196	8-30-24	9- 4-24	C. G. Payne	BWW	41.67
2557	197	8-30-24	9- 4-24	Thorwald Larson	BWW	83.34
2553	199	8-30-24	9- 4-24	O. C. Williams	BWHOL	75.00
2552	200	8-30-24	9- 4-24	L. D. Divelbess	BWHOL	125.00

Wnt.	Treas.	Date Issued	Date Registered	Issued to	Held by	Amount
2567	201	8-30-24	9-4-24	D. W. Easley	BWHOL	41.67
2566	202	8-30-24	9-5-24	Sam Proctor	BWW	41.67
2564	203	8-30-24	9-5-24	J. W. Bazell	BWW	25.00
2565	206	8-30-24	9-7-24	J. O. Freeman	BWHOL	7.50
2572	207	8-30-24	9-7-24	Jno. L. Fish	BWHOL	4.00
2554	208	8-30-24	9-9-24	Geo. Woolford	BWHOL	37.50
2568	209	8-30-24	9-9-24	Willard Whipple	BWHOL	5.00
2504	210	7-31-24	9-9-24	N. A. Petersen	BWHOL	4.00
2539	211	8-15-24	9-9-24	N. A. Petersen	BWHOL	4.00
2578	212	8-30-24	9-9-24	L. H. Brewer	BWW	1.25
2511	213	8-30-24	9-11-24	Jos. L. Petersen	BWHOL	4.00
2574	214	8-30-24	9-11-24	N. A. Petersen	BWHOL	4.00
2575	215	8-30-24	9-11-24	Harvey Ballard	BWHOL	3.50
2577	217	8-30-24	9-16-24	A. B. Porter	BWW	2.00
2578	223	9-15-25	9-16-24	J. E. Crosby	BWHOL	62.50
2597	224	9-15-24	9-16-24	G. T. West	BWHOL	125.00
2588	225	9-15-24	9-16-24	O. C. Williams	BWHOL	75.00

Wnt.	Treas.	Date Issued	Date Registered	Issued to	Held by	Amount
2590	228	9-15-24	9-17-24	J. E. Walker	BWW	100.00
2586	229	9-15-24	9-17-24	C. G. Payne	BWW	41.67
2599	231	9-15-24	9-17-24	D. W. Easley	BWHOL	41.67
2592	232	9-15-24	9-17-24	Thorwald Larson	BWHOL	83.34
2587	233	9-15-24	9-17-24	L. D. Divelbess	BWHOL	125.00
2581	234	9-15-24	9-18-24	L. C. Henning	BWW	75.00
2528	237	8-15-24	9-19-24	Sam W. Proctor	BWW	41.67
2592	238	9-15-24	9-19-24	Sam W. Proctor	BWW	41.67
2596	240	9-15-24	9-19-24	Fred Williams	BWHOL	30.00
2610	241	9-15-24	9-19-24	Harvey Ballard	BWHOL	3.50
2606	242	9-15-24	9-24-24	Jos. L. Petersen	BWHOL	4.00
2609	243	9-15-24	9-24-24	N. A. Petersen	BWHOL	4.00
2607	244	9-15-24	9-25-24	J. L. Fish	BWHOL	4.00
2563	246	8-30-24	9-27-24	L. F. McClanahan	BWHOL	32.50
2622	247	9-30-24	10- 1-24	O. C. Williams	BWHOL	75.00
2624	249	9-30-24	10- 2-24	J. E. Walker	BWW	100.00

Wnt.	Treas.	Date Issued	Date Registered	Issued to	Held by	Amount
2621	252	9-30-24	10- 2-24	L. D. Divelbess	BWHOL	125.00
2616	253	9-30-24	10- 3-24	L. C. Henning	BWW	75.00
2641	256	9-30-24	10- 3-24	Jno. L. Fish	BWHOL	8.00
2630	257	9-30-24	10- 3-24	Fred Williams	BWHOL	30.00
2623	261	9-30-24	10- 4-24	Geo. Woolford	BWHOL	37.50
2614	262	9-30-24	10- 4-24	J. E. Crosby	BWHOL	62.50
2644	263	9-30-24	10- 4-24	Harvey Ballard	BWHOL	3.50

BWW—Bank of Winslow, Winslow, Arizona.

M&SGB—Merchants & Stock Growers Bank, Holbrook, Arizona.

BWHOL—Bank of Winslow, Holbrook Branch, Holbrook, Arizona.

PLAINTIFF'S EXHIBIT No. 161.

Marked for Identification Only. Case No. E.-93, Prescott. Admitted and Filed January 7, 1926.

WARRANTS ISSUED BY COUNTY SUPERINTENDENT OF SCHOOLS
NAVAJO COUNTY, ARIZONA,
ON SCHOOL FUNDS

Registered October 4, 1923, to October 4, 1924.

Unpaid May 25, 1925

SD	Wnt. No.	Tres. No.	Date Issued	Date Reg.	Issued to	Held By	Amount
1	157	3	10- 2-22	10- 3-22	Bank of Winslow	BWW (Pd)	\$ 281.23
1	151	4	9-30-22	10- 3-22	Bank of Winslow	BWW (Pd)	1,015.06
1	158	5	10- 2-22	10- 3-22	Bank of Winslow	BWW (Pd)	660.50
3	1107	128	4- 9-24	4-13-24	M. & S. G. Bank	M&SGB	510.82
HI	1131	129	4-12-24	4-15-24	Bank of Winslow	BWW	300.00
1	1130	130	4-12-24	4-15-24	Bank of Winslow	BWW	801.47
3	5	132	7-14-24	7-16-24	Bank of Winslow	M&SGB	25.00

SD	Wnt. No.	Tres. No.	Date Issued	Date Reg.	Issued to	Held By	Amount
1	10	133	7-15-24	7-17-24	Bank of Winslow	BWW	50.16
G	3	134	7-14-24	7-17-24	Holbrook Tribune	M&SGB	17.30
1	2	135	7-14-24	7-17-24	Western Union Tel. Co.	M&SGB	.60
1	1	136	7-14-24	7-17-24	Winslow Mail	BWW	4.75
1	12	137	7-22-24	7-25-24	Bank of Winslow	BWW	179.25
1	20	138	7-22-24	7-25-24	Bank of Winslow	BWW	142.36
G	206	139	7-22-24	7-24-24	Bank of Winslow	BWW	75.00
G	7	145	8- 1-24	8- 3-24	Kate Kinney	M&SGB	75.00
1	31	146	8- 6-24	8- 8-24	Bank of Winslow	BWW	150.00
5	41	148	8-13-24	8-16-24	M. & S. G. Bank	M&SGB	6.87
UH	42	149	8-13-24	8-16-24	M. & S. G. Bank	M&SGB	225.00
R	151	150	6-30-24	8-18-24	Bank of Wins. Holbrook	BWW	90.00
G	11	151	8-16-24	8-18-24	Kate V. Kinney	BWW	75.00
G	150	152	6-30-24	8-18-24	Bank of Wins. Holbrook	BWW	76.72
3	44	156	8-20-24	8-22-24	Bank of Wins. Holbrook	BWHOL	829.00
5	2	157	8-20-24	8-22-24	Bank of Wins. Holbrook	BWHOL	208.33
5	28	158	8- 2-24	8-23-24	Public School Pub. Co.	BWHOL	36.09

SD	Tres. No.	Date Issued	Date Reg.	Issued to	Held by	Amount
10	52	8-20-24	8-23-24	Bank of Wins. Holbrook	BWHOL	18.00
5	51	8-20-24	8-23-24	First National Bank	BWW	10.00
10	48	8-20-24	8-23-24	First National Bank	BWW	9.50
2	55	8-25-24	8-30-24	Bank of Wins. Holbrook	BWHOL	47.30
G	15	9-3-24	9-4-24	Bank of Wins. Holbrook	BWHOL	75.00
UH	60	9-4-24	9-7-24	Bank of Wins. Holbrook	BWHOL	10.00
1	61	9-6-24	9-9-24	Bank of Wimslow	BWW	366.66
10	63	9-6-24	9-11-24	Cooley Lumber Co.	BWHOL	86.26
G	16	9-6-24	9-11-24	Holbrook Tribune	BWHOL	8.00
G	18	9-6-24	9-12-24	Navajo-Apache Tel. Co.	BWHOL	9.60
G	19	9-6-24	9-12-24	Western Union Tel. Co.	BWHOL	.72
3	64	9-16-24	9-15-24	D. G. Younkin	BWHOL	250.00
1	71	9-13-24	9-16-24	Bank of Wimslow	BWW	280.00
1	73	9-13-24	9-16-24	Bank of Wimslow	BWW	25.80
UH	67	9-13-24	9-16-24	Bank of Wins. Holbrook	BWHOL	97.10
10	68	9-13-24	9-16-24	Bank of Wins. Holbrook	BWHOL	91.05
G	20	9-15-24	9-16-24	Bank of Wins. Holbrook	BWHOL	75.00

SD	Wnt. No.	Tres. No.	Date Issued	Date Reg.	Issued to	Held by	Amount
1	79	186	9-16-24	9-18-24	Bank of Winslow	BWW	177.23
1	82	187	9-16-24	9-18-24	Bank of Winslow	BWW	15.00
3	86	191	9-10-24	9-19-24	Bank of Wins. Holbrook	BWHOL	150.00
1	96	165	9-20-24	9-23-24	Bank of Winslow	BWW	43.50
1	103	198	9-21-24	9-29-24	C. T. Hansen	BWHOL	150.00
7	138	204	9-30-24	10- 2-24	Bank of Wins. Holbrook	BWHOL	140.00
16	137	205	9-30-24	10- 2-24	Bank of Wins. Holbrook	BWHOL	4.70
3	120	206	9-29-24	10- 2-24	Bank of Wins. Holbrook	BWHOL	345.00
1	122	207	9-29-24	10- 2-24	Bank of Wins. Holbrook	BWHOL	9.52
1	127	208	9-29-24	10- 3-24	Bank of Winslow	BWW	2,102.32
1	128	209	9-30-24	10- 3-24	Bank of Winslow	BWW	154.80
1	4	210	9-30-24	10- 3-24	Bank of Winslow	BWW	165.00
1	132	211	9-30-24	10- 3-24	Bank of Winslow	BWW	120.00
Total							\$10,872.57

BWW —Bank of Winslow, Winslow, Arizona.

M&SGB —Merchants & Stock Growers Bank, Holbrook, Arizona.

BWHOL—Bank of Winslow, Holbrook Branch, Holbrook, Arizona.

PLAINTIFF'S EXHIBIT No. 162.

Marked for Identification only. Case No. E-93, Prescott.
Admitted and Filed January 7, 1926.

WARRANTS ISSUED BY NAVAJO
COUNTY, ARIZONA, ON ROAD FUND
Registered October 4, 1923 to October 4, 1924

Unpaid May 25, 1925.

Wnt. No.	Treas. No.	Date Issued	Date Registered	Issued to	Held by	Amount
826	128	10-6-23	10-19-23	Standard Lbr. Mills	Ariz. St.	\$ 46.10
1162	183	3-13-24	3-18-24	Ray Cummins	BWW	29.00
1203	196	4-12-24	4-15-24	Ray Cummins	BWW	36.00
1329	208	6-30-24	7-17-24	E. T. Hatch	M&SGB	28.00
1370	209	7-15-24	7-17-24	L. Owens	M&SGB	75.00
1340	210	6-30-24	7-12-24	J. T. Flake	M&SGB	42.00
1361	211	6-30-24	7-12-24	Riley Freeman	M&SGB	24.00
1357	212	6-30-24	7-10-24	Elios Smith	M&SGB	77.00
1329	213	6-30-24	7-10-24	W. Turley	M&SGB	13.50

Wnt. No.	Treas. No.	Date Issued	Date Registered	Issued to	Held by	Amount
1328	214	6-30-24	7-10-24	A. Hatch	M&SGB	4.00
1328	215	6-30-24	7-10-24	J. W. Pearce	M&SGB	18.38
1344	216	6-30-24	7-18-24	Standard Oil Co.	BWW	76.95
1367	217	7- 7-24	7-12-24	Navajo Garage	BWW	41.20
1366	218	7- 7-24	7-20-24	J. H. Lionberger	BWW	9.00
1318	219	6-30-24	7-20-24	Bert Bowler	BWW	24.00
1376	220	8- 4-24	8- 7-24	C. H. Turley	M&SGB	16.00
1375	223	8- 4-24	8- 6-24	L. B. Owens	M&SGB	75.00
1374	224	8- 4-24	8- 6-24	H. W. Despain	M&SGB	98.00
1379	226	8- 4-24	8- 8-24	Wm. Dagg Merc. Co.	BWW	70.40
1386	227	8- 4-24	8- 8-24	Carduff Transfer Co.	BWW	63.00
1390	230	8- 4-24	8-12-24	Cooley Lumber Co.	M&SGB	251.80
1387	231	8- 4-24	8- 9-24	J. H. Lionberger	M&SGB	20.00
1389	232	8- 4-24	8- 9-24	Jennings Auto Co.	M&SGB	11.32
1396	237	8-30-24	8-30-24	L. B. Owens	BWHOL	75.00
1399	239	9- 3-24	9- 4-24	S. P. Fish	BWHOL	23.80
4121	240	9- 3-24	9- 9-24	Chas. H. Turley	BWHOL	28.00

Wnt. No.	Treas. No.	Date Issued	Date Registered	Issued to	Held by	Amount
1410	245	9- 3-24	9- 9-24	Old Trails Garage	BWW	1.50
1400	246	9- 3-24	9-11-24	Union Oil Co.	BWHOL	97.37
1401	247	9- 3-24	9-11-24	Standard Oil Co.	BWHOL	54.03
1424	248	9- 3-24	9-12-24	Wayne Webb	BWHOL	51.00
1419	250	9- 3-24	9-13-24	Wayne Larson	BWHOL	25.00
1402	251	9- 3-21	9-13-24	John T. Flake	BWHOL	27.00
1414	252	9- 3-24	9-13-24	John T. Flake	BWHOL	28.00
1412	255	9- 3-24	9-15-24	J. W. Nickolaus	BWHOL	45.00
1423	256	9- 3-24	9-16-24	E. J. Larson	BWW	8.00
1416	259	9- 3-24	9-17-24	C. L. Rhoton	BWHOL	4.00
1429	260	9-15-24	9-17-24	F. B. Gardner	BWHOL	75.00
1428	261	9-15-24	9-17-24	L. B. Owens	BWHOL	75.00
1417	264	9- 3-24	9-29-24	L. E. Johnson	BWHOL	19.25
1431	265	9-30-24	10- 2-24	L. B. Owens	BWHOL	75.00
Total						<u>\$1,861.60</u>

Ariz. St.—Arizona State Bank, Winslow, Arizona.

BWW —Bank of Winslow, Winslow, Arizona.

M&SGB —Merchants & Stock Growers Bank, Holbrook, Arizona.

BWHOL—Bank of Winslow, Holbrook Branch, Holbrook, Arizona.

Settled and approved as statement of the evidence this 16th day of Sept., 1926.

F. C. JACOBS,
Judge.

O. K.—E. M. W.

Regular October, 1925, Term—At Phoenix.

(Minute Entry of February 12, 1926.)

Hon. F. C. JACOBS.

United States District Judge, Presiding.

(Court and Cause.)

No. E.—Prescott.

ORDER FOR DECREE.

The Court renders a decree in favor of complainant allowing a set-off of the amount of General School Warrants \$6,313.38. Salary Fund Warrants \$2,311.04; Road Fund Warrants in the sum of \$792.95; making a total of \$9,417.37, together with interest from the date of the closing of the Bank of Winslow; that the improvement bonds of the Town of Winslow in the sum of \$7,000.00 par value be returned by the defendant Hammons to the County Treasurer of Navajo County; that the amount thereof be set off in favor of the plaintiff; making a total set-off of \$16,417.37;

A decree in favor of Apache County and against the complainant as to the Navajo County warrants pledged to Apache County prior to the 4th day of October, 1924.

A decree in favor of intervening petitioner George Jarvis, Treasurer and *Ex-officio* Tax Collector of Apache County, and the intervening petitioners Benjamin Brown, Jr., the National Surety Company and Fidelity and Deposit Company of Maryland for the relief prayed for in their respective intervening petitions to the extent that the said George Jarvis, Treasurer of Apache County,

shall retain possession of the registered warrants pledged to it; to apply the same in the manner provided and permitted by the nature and character of the pledge and by the law of Arizona;

That the restraining order heretofore entered be dissolved.

Dated this 12th day of February, 1926.

Thereupon, it is ordered by the Court that exceptions to the findings of the Court be entered on behalf of all the parties to the action.

O. K.—E. M. W.

In the District Court of the United States for the
District of Arizona.

No. 93—EQUITY.

MARYLAND CASUALTY COMPANY, a Corporation,

Complainant,

vs.

A. T. HAMMONS, Superintendent of Banks of the State of Arizona; J. S. DODSON, Special Deputy Superintendent of Banks of Arizona; GEORGE J. SHAEFFER, Treasurer and *Ex-officio* Tax Collector of Navajo County, a Corporation,

Defendants,

GEORGE JARVIS, Treasurer and *Ex-officio* Tax Collector in and for the County of Apache, State of Arizona; BENJAMIN BROWN, Jr.; THE NATIONAL SURETY COM-

PANY, a Corporation; and FIDELITY & DEPOSIT COMPANY OF MARYLAND, a Corporation,

Intervenors.

DECREE.

This cause came on to be heard at this term of the above-named court, and was submitted to the court upon the pleadings and upon the evidence introduced by the respective parties, and the argument of counsel for the several parties thereto had, and now the Court having duly considered the evidence and arguments, and being fully advised in the premises, it is ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. That the amount of the indebtedness of the Bank of Winslow to the defendant Navajo County, after applying all payments and liquidations properly applicable to this indebtedness, is the sum of Thirty-seven Thousand Seven Hundred Fifty-two and 44/100 Dollars (\$37,752.44).

2. That the complainant, Maryland Casualty Company, as surety upon the bond given by said Bank of Winslow, is entitled to have set off against the said indebtedness of the Bank of Winslow to Navajo County, to wit:

General School and District School warrants and Manual Training School warrants,	\$6313.38
Salary Fund warrants aggregating,	2311.04
Road Fund warrant aggregating,	792.95
	<hr/>
Making a total of	\$9417.37

with all interest accruing thereon to the 4th day of October 1924, and that the said defendant A. T. Hammons, as State Superintendent of Banks, and successor of the Bank of Winslow and in possession of its assets, do return said warrants to the defendant George J. Schaeffer, County Treasurer and *Ex-officio* Tax Collector of Navajo County, who shall accept the said warrants and credit the amount thereof, plus the interest as aforesaid, upon the indebtedness, to wit: the said sum of \$37,752.44, from the said Bank of Winslow to Navajo County.

3. That the balance of the indebtedness from said Bank of Winslow to said County of Navajo equals the sum of \$37,752.44, less the principal of the said Navajo warrants, with interest thereon to the 4th day of October, 1924.

4. That the said defendant A. T. Hammons, Superintendent of Banks of the State of Arizona, shall return and deliver to the said defendant George J. Schaeffer, County Treasurer and *Ex-officio* Tax Collector of the County of Navajo, and Navajo County, the improvement bonds of the Town of Winslow in the par value of the sum of \$7000, together with all unpaid interest coupons thereon and all interest, if any, accrued thereon since the delivery of the said bonds by the defendant Schaeffer to the said defendant Hammons, or the defendant Dodson, and upon the payment of the balance due after the offset of \$9417.37, and interest has been made as hereinbefore provided, to the defendant Navajo County, by the complainant, the said defendant Schaeffer County Treasurer aforesaid, shall

return and deliver the said bonds to the complainant.

5. That the complainant herein shall pay to the defendant George J. Schaffer, County Treasurer and *Ex-officio* Tax Collector of Navajo County, the balance due after such offset has been made as hereinbefore provided, and upon payment of such balance shall receive from said defendant George J. Schaeffer County Treasurer and *Ex-officio* Tax Collector of Navajo County, the said Town of Winslow Improvement Bonds in the par value of seven thousand Dollars (\$7000), together with all unpaid interest coupons thereon, and any interest that may have been collected thereon since the turning over of said bonds by the defendant Schaeffer to the defendant Hammons or the defendant Dodson, and thereafter the complainant shall be fully discharged of any liability to the said County of Navajo under or by virtue of its bonds set forth in the first amended bill of complaint herein.

6. That the complainant Maryland Casualty Company, a corporation, is entitled to be subrogated to the rights of said County of Navajo, and the defendant George J. Schaeffer, Treasurer and *Ex-officio* Tax Collector of said County of Navajo as a general creditor of said Bank of Winslow to the extent of the amount so paid by it to the said defendant Schaeffer as aforesaid, and all dividends and payments made and to be made by the defendant A. T. Hammons as Superintendent of Banks of the State of Arizona, or the defendant Dodson, as Deputy Superintendent of Banks of the State of Arizona, or his successor in such position, out of

the assets and property of said Bank of Winslow to the same extent as other general creditors of said Bank of Winslow, and that upon payment by the complainant to the defendant Schaeffer of the amount herein decreed to be paid by it to the said defendant George J. Schaeffer, County Treasurer and *Ex-officio* Tax Collector of the County of Navajo, aforesaid, the said last mentioned amount is hereby declared, adjudged and decreed to be a just and valid claim of the complainant against the said Bank of Winslow, and for the purpose of carrying into effect the subrogation hereby decreed, the said complainant is hereby adjudged and decreed to be a general creditor of said Bank of Winslow to the extent of the amount last above mentioned, and entitled to all the rights, dividends and payments heretofore made or to be made to other general creditors of said Bank of Winslow, and that such claim have the status of and be in all respects established as a duly allowed claim against said Bank of Winslow in the sum last aforesaid, and that the defendant A. T. Hammons, as Superintendent of Banks of the State of Arizona in charge of the liquidation of said Bank of Winslow, be, and is hereby directed to pay or cause to be paid to the complainant Maryland Casualty Company, the same dividends as have been paid or may hereafter be paid to the general creditors of said Bank of Winslow whose claims have been duly approved and allowed so as to place the said complainant Maryland Casualty Company upon the same footing and in the same position as other general creditors of said Bank of Winslow.

7. That the pledge of Navajo County warrants to Apache County, State of Arizona, and the Treasurer of said County, be and the same is hereby adjudged to be a valid and lawful pledge and that as against the intervenors George Jarvis, Treasurer and *Ex-officio* Tax Collector of Apache County, State of Arizona, Apache County, Benjamin Brown, Jr., the National Surety Company, a corporation, and the Fidelity and Deposit Company of Maryland, a corporation, the bill of complaint and the first amended bill of complaint be, and the same are hereby dismissed, and that the restraining order heretofore issued, so far as the same relates to the warrants so pledged by the said Bank of Winslow to and with the Treasurer of said Apache County, be and the same is hereby dissolved and discharged and said George Jarvis, Treasurer and *Ex-officio* Tax Collector of Apache County, State of Arizona, is hereby directed to present said Navajo County Warrants to George J. Schaeffer, Treasurer and *ex-officio* Tax Collector of Navajo County, Arizona, and upon payment of said warrants, said George Jarvis, Treasurer and *Ex-officio* Tax Collector of Apache County, Arizona, is hereby directed to apply the amount so received upon the reduction of the indebtedness of The Bank of Winslow to Apache County, arising out of public moneys of Apache County in the hands of the said The Bank of Winslow October 4th, 1924.

8. That the complainant do have and recover of and from the defendants A. T. Hammons, Su-

perintendent of Banks of the State of Arizona, J. S. Dodson, as Special Deputy Superintendent of Banks of the State of Arizona, George J. Schaeffer, Treasurer and *Ex-officio* Tax Collector of Navajo County, and Navajo County, a corporation, its costs herein incurred and taxed at the sum of \$182.00, with all rights given by the laws of the State of Arizona for the collection thereof.

9. That intervenors George Jarvis, Treasurer and *Ex-officio* Tax Collector of Apache County, State of Arizona, Benj. Brown, Jr., National Surety Company and Fidelity & Deposit Company of Maryland do have and recover of and from complainant Maryland Casualty Company, severally and respectively, costs in this suit taxed respectively as follows:

George Jarvis, Treasurer and <i>Ex-officio</i> Tax Collector of Apache County, Arizona ...	\$7.00
Benj. Brown, Jr., National Surety Company and Fidelity & Deposit Company of Maryland	\$7.00

That intervenors do have execution therefor.

Done in open court this 19th day of April, 1926.

F. C. JACOBS,

United States District Judge for the District of
Arizona.

O. K.—M. R. M.

[Endorsed]: Filed Apr. 19, 1926.

PETITION FOR ALLOWANCE OF AN AP-
PEAL TO CIRCUIT COURT OF AP-
PEALS AND ASSIGNMENTS OF ERROR.

Each of the above-named defendants, A. T. Hammons, Superintendent of Banks of the State of Arizona and J. S. Dodson, Special Deputy Superintendent of Banks of Arizona, believing themselves aggrieved by the final decree in the above-entitled cause, hereby appeal from said decree to the United States Circuit Court of Appeals for the Ninth Circuit, and pray that a transcript of such part of the record as the parties to this cause shall by praecipe duly indicate, together with the exhibits and evidence herein stated in simple and condensed narrative form, so far as it relates to any of the claims on which error is predicated on any matter indicated by the defendants and also the decree herein rendered, all duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit, and that such other and further proceedings may be had which may be proper in the premises; and that a transcript of the record of this court, and of such part or abstract of the proofs as the rules of said court of appeals may require, and such assignments of error, briefs, and arguments may be caused to be printed and submitted to said court by the appellants as required by the Act of Congress of date February 13, 1911, as under Rule 23 of said Circuit Court of Appeals, is permitted and under

rules of court thereto applicable; hereby appealing from such portions of said decree and judgment as grants to the above-named plaintiff relief as against these appealing defendants and not hereby intending to appeal for any relief in said judgment and decree granted to the interveners in said cause.

And the defendants, A. T. Hammons, Superintendent of Banks of the State of Arizona, J. S. Dodson, Special Deputy Superintendent of Banks of Arizona, hereby assign the errors asserted and intended to be urged as follows:

DEFENDANT'S ASSIGNMENTS OF ERROR.

ASSIGNMENT OF ERROR No. I.

The Court erred in overruling the motion of these defendants that the complaint and action be dismissed upon the grounds in that motion stated as follows:

“That this Court has no jurisdiction of the matters set out in said bill in that all of the said matters are involved in a proceeding entitled: “In the matter of the liquidation of the Bank of Winslow, Winslow, Arizona, having branch offices at Holbrook, Arizona, and St. Johns, Arizona, File No. 1865 in the Superior Court of the State of Arizona, in and for the County of Navajo, being a court of competent jurisdiction over the said defendant as *ex-officio* receiver of the Bank of Winslow, an insolvent banking corporation, pursuant to the laws of the State of Arizona, and the said

defendants are acting under the orders of said Superior Court of Navajo County, Arizona, and the property and matters referred in said Amended Bill of Complaint are a part of the *corpus* of the Estate of the Bank of Winslow, under supervision of the last-named court"; it appearing from the allegations of Paragraph 3 of the Bill of Complaint that on October 4th, 1924, prior to the filing of any Bill in this case that the defendants in their official capacity took over the Bank of Winslow, then insolvent, and took charge thereof and its property and assets for the purpose of liquidation, under the laws of the State of Arizona, and that defendants had reported to the Superior Court in said matter as shown by Paragraph 5 of the Bill of Complaint; and these defendants acting in their official capacities had prior to the filing of the Bill of Complaint, in the process of a liquidation of the affairs of the Bank of Winslow, had adjusted with the County of Navajo, and its treasurer, certain portions of the indebtedness of that bank to said county, which settlement included a payment of certain county warrants, and a surrender of \$7,000.00 of Town of Winslow Improvement Bonds, by the County and its Treasurer to these defendants, all as appears in Paragraph 7 of the First Amended Bill; and it also appearing from the face of the whole of the original Bill; and the First Amended Bill, that all of the particular assets of the Bank of Winslow as to which the plaintiff therein demanded relief as against these defendants were assets in the

possession of these defendants were assets involved in a liquidation of the affairs of the Bank of Winslow by these defendants, commenced as above and continued up to filing of Bill in this cause, and thus as and from the face of the Bill, it appears that the entire subject matter of said Bill, the assets as to which relief is sought, and as to the plaintiff and these defendants, are subject matters, assets and parties, which were each and all within the jurisdiction of the aforesaid state court at the time the bill was filed, and for reason thereof, defendants' motion to dismiss this case should have been granted by the District Court.

ASSIGNMENT OF ERROR No. II.

Under the provisions of Section 44, Chapter 31 of Session Laws of Arizona, of 1922, the assets and property of an insolvent bank when taken in charge by the Superintendent of Banks, become assets and property as to which the Superintendent of Banks is forthwith vested at law and in equity with the sole, exclusive and unconditional ownership and title, subject only to such equities in favor of third persons which have arisen or been obtained prior to the taking charge thereof by the Superintendent of Banks. And under the specific provisions of Section 46 of above Chapter 31, which reads as follows:

“When the affairs of any bank have come into the hands of the Superintendent of Banks for liquidation the relations between the Superior Court and the Superintendent of

Banks shall be the same as the relations of the Superior Court and the laws now existing, and the Superior Court shall have the same authority and jurisdiction over the Superintendent of Banks in such matters as it would over receivers appointed by the court, unless in this act *other* provided."

the Superior Court of the State of Arizona in and for Navajo County on the 4th day of October, 1924, was vested by law with full, and exclusive jurisdiction as to all matters pertaining to the liquidation of the affairs of the insolvent Bank of Winslow, and under the facts as alleged in the Bill of Complaint herein (particularly as stated in Assignment of Error No. 1, for brevity not repeated), the facts as to such jurisdiction so exclusively vested in the State Court, the District Court erred in entertaining the plaintiff's Bill, and erred in refusing to dismiss same for want of jurisdiction upon the motions of defendants that the same be dismissed for lack of jurisdiction.

ASSIGNMENT OF ERROR No. III.

Without regard to the questions of jurisdiction as presented in Assignment of Error Nos 1 and II, the Court erred for the reason that plaintiff wholly failed to allege, and wholly failed to show by its proofs, that it had at any time presented its alleged claim by filing same with the defendant Superintendent of Banks, as required by Section 48 of Chapter 31, Session Laws of Arizona, 1922, a provision and requirement in the state law

which makes such a presentation and rejection by the Superintendent of Banks, a condition precedent to the right of any claimant to resort to any court at all, for relief as against the rejection by the Superintendent of Banks of a just claim, overruling the first reason of defendants as stated in defendants' Motion to Dismiss, that the bill failed to state a cause for equitable relief to plaintiff, and entering a decree regardless of said motion and reason.

ASSIGNMENT OF ERROR No. IV.

The Legislature of the State of Arizona, in paragraph 2462, Revised Statutes of Arizona, 1913 Civil Code, when it specially provided as follows:

“All warrants issued by the board of supervisors of any county shall be receivable in payment of all debts to such county, and all taxes assessed against property in such county. Upon the tender of any such warrant in payment of any such debt or tax, the county treasurer shall, if the warrant be less than the amount of such debt or tax, and be accompanied by a sufficient sum of money to make up the full amount of such debt or tax, credit the amount of such warrant upon such debt or tax; if the amount of such warrant be greater than the amount of such debt or tax, he shall mark such debt or tax paid, and endorse the amount thereof upon the back of such warrant as a partial payment thereof, provided that only the person named as payee

in any such warrant shall be entitled to use the same in payment of such debt or tax.” therein and thereby covered the entire subject as to matters of set-off in favor of holders of warrants, and under the rule of “*Expressio unius est exclusio alterius*” as it should have been applied to the facts and matters of this cause, the District Court erred in decreeing the plaintiff was entitled to any set-off on account of any of the warrants in suit, there being an entire absence of evidence showing any right to such set-off under above statute.

ASSIGNMENT OF ERROR No. V.

Under the effect of the provisions of Paragraphs 2419 and 2420 of Revised Statutes of Arizona, 1913 Civil Code, which read as follows:

“The board of supervisors, shall, by resolution, create a fund to be known as the expense fund, and shall, by order to be entered in the minutes of the board, order, whenever and as often as necessary, the transfer of a sufficient amount of money into said expense fund from the general fund of such county to pay the expenses of maintaining the government of such county until additional revenues of such county may be collected with which to defray such expenses. Before making such orders the board shall make an estimate of the amount required, and for what purpose, and also the amount of money available, or that may be available for the purpose of such

fund, from taxes or otherwise, and when such estimate is made, shall enter the whole of such itemized estimate in the minutes of the board. It is hereby made the duty of the county treasurer of such county to make such transfer when so ordered by such board, and to honor and pay from such expense fund orders drawn thereon by the board of supervisors of such counties for the maintenance of the county government, such orders to be drawn and signed in the same manner as county warrants have been heretofore, and the board of supervisors shall in no case issue an order on such fund until there is sufficient money therein to pay and redeem the same. Orders shall be issued on said expense fund in the order of their allowance by said board; provided, however, that if at any time in the opinion of the board of supervisors there shall be more money in said expense fund than is necessary to pay the expenses of maintaining the government of such county, the board of supervisors thereof shall make an order directing the treasurer to transfer such excess to the general fund of the county, and the treasurer shall make such transfer so ordered, and the money so re-transferred shall be available for the redemption of outstanding warrants against the county, as now provided by law."

"The expense of maintaining the government of any county consists of official salaries, fees and mileage, fees and mileage of jurors

and witnesses, county printing and advertising, books and stationery, feeding county prisoners, the care of the indigent sick, water, wood, lights and like supplies for county institutions, insurance and necessary repairs of county buildings. But nothing herein contained shall authorize the payment of any money from such expense fund for the repair or building of any road or bridge; provided, further, that boards of supervisors may, in their discretion, create a salary fund for the purpose of paying therefrom, when due, salaries of officials and employees, and fees and mileage of jurors and after the transfer of funds to the expense fund, are hereby authorized to transfer from said expense fund to said salary fund, in manner provided for transfer of funds from the general fund to the expense fund, an amount sufficient to pay such salaries of officials and employees, and fees and mileage of jurors, and to authorize and order payments from such salary fund in like manner as on the expense fund, and may, in like manner, create and make payments from such other county funds as they may deem necessary for the proper transaction of business of the county."

Any amount standing to the credit of a so-called "SALARY FUND," is an amount specially set aside by order of the Board of Supervisors for the sole purpose of providing cash funds for actual payments of warrants as same are drawn upon that special fund and presented to the Treasurer.

for payment therefrom, and until an order has been made by that Board for a re-transfer of actual balances in the salary fund to the general fund for the purpose of paying registered warrants, the County Treasurer is without authority to pay registered warrants from salary funds, and there being an entire absence of allegation in the Bill, and an entire absence of evidence at the hearing that any such retransferring order was ever made, the whole record of the case is without any evidence to support the decree of the District Court, that any of the registered warrants, by the decree adjudged as due and available as a set-off, were in fact so available, and in the absence of such evidence, the Court was in error in adjudging that registered warrants to the amount of \$9,417.-37, were items to be properly allowed as a set-off in favor of plaintiff.

ASSIGNMENT OF ERROR No. VI.

The District Court was in error when it decreed that plaintiff was entitled to have set-off in its favor, General School, District School and manual training school warrants to the amount of \$6,313.38, for the reasons that the record shows that no part of any public funds collected for any of above school purposes were included in any deposit made by the County Treasurer of Navajo County in the insolvent Bank of Winslow, and under the statute and constitutional laws of the State of Arizona, public revenues collected for school purposes are funds distinct from any revenues col-

lected for county purposes, and under those laws the County Treasurer is prohibited from using money collected for school purposes, for county purposes, or *vice versa*, and the decree of the District Court in its effect would require the County Treasurer of Navajo County to do an unlawful act, by compelling him to divert public money raised for one public purpose to another purpose, and that decree so far as it relates to above described "SCHOOL FUNDS" is not only contrary to the evidence of the case, but is also contrary to the law of the case to be applied to the facts of that record as shown by the undisputed evidence.

ASSIGNMENT OF ERROR No. VII.

That the testimony of witness George Schaefer, that the general county school fund had a credit to the amount of \$10,079.00, which is the only evidence in the whole record upon which to base a conclusion that there were school funds sufficient to pay the \$6,313.36 of school warrants by the District Court in its decree allowed as a set-off in favor of Plaintiff, and is wholly insufficient evidence to support the decree in that regard, for the reason that under the statute laws of the State of Arizona, the County Treasurer is without authority to pay any warrant drawn upon funds provided for any school district, until the County School Superintendent has made an order of distribution under which general collections of funds for school purposes, are distributed to the credit of particular school districts, and then and then only, the County Treasurer becomes authorized to

pay warrants drawn for the purposes of each such district, and to the extent of funds so distributed to each district. There being no evidence in the whole record that the \$10,079.00 amount of general school funds had been ordered distributed to the districts, and there being no evidence that any district had funds to its credit sufficient to have paid such of the warrants drawn for its purposes as are included in the \$6,313.38 of school warrants by the District Court allowed as a set-off, the decree in that respect is wholly erroneous, for the reason that it is not supported by the evidence, and is contrary to the law of the State of Arizona as that law should have been considered by the District Court and applied to the record of the case.

ASSIGNMENT OF ERROR No. VIII.

That the District Court erred in permitting evidence to be introduced as to the existence of funds in the county treasury for payment of any of the registered warrants referred to in the decree, and overruling the objections to such a line of evidence, in which objection it was urged that such evidence was outside the issues as framed by the pleadings, that it was alleged and admitted that all warrants in question were "registered warrants," and as such were not subject to payment until called by notice, and then payable only in the order of dates of registration, according to the statutes of Arizona, paragraphs 2440, 2568, 2569 and 2571 of Revised Statutes of Arizona, 1913 Civil Code, Paragraphs 2440 and 2571 reading as follows:

“Warrants drawn by order of the supervisors on the county treasurer for the current expenses during each year must specify the liability for which they are drawn, and when they accrued, and must be paid in the order of presentation to the treasurer. If the fund is insufficient to pay any warrant, it must be registered, and thereafter paid in the order of its registration.” (Par. 2440.)

“Warrants drawn on the treasury and properly attested are entitled to preference as to payment out of moneys in the treasury properly applicable to such warrants according to the priority of time in which they were presented. The time of presenting such warrants must be noted by the treasurer, and upon receipt of moneys into the treasury not otherwise appropriated, he must set apart the same or so much thereof as is necessary for the payment of such warrants.”

And there being no allegation in the Bill, to the effect that the County Treasurer of Navajo County had been derelict in duty, in failing to give a call for payment of registered warrants, under the requirements of above referred to provisions, the objections of defendants against the introduction of any evidence tending to show such a dereliction should have been sustained.

ASSIGNMENT OF ERROR No. IX.

That the District Court erred in overruling the motions of defendants that the testimony of County

Treasurer Schaefer be stricken for the reasons urged in support of such motion, that there was no evidence showing any money in the Bank of Winslow available at any time for the payment of any of school warrants, or the road warrants, or the salary warrants, as to which plaintiff claimed a set-off; that the testimony of said Schaefer did show the existence of other registered warrants, about \$47,000.00 of so-called "expense fund warrants," a large amount of other so-called "salary warrants," and other school warrants, all issued and held by other parties than parties to this suit, and there being no evidence as to any call for payment, and no evidence of the existence of funds sufficient to pay all outstanding registered warrants, and no evidence establishing, under the statutes referred to and recited in Assignment of Error No. VIII, that the warrants held by the Bank of Winslow were entitled to priority of payment to the extent of any funds on hand, and which were reasons sufficient to require the District Court to sustain said motion to strike the testimony referred to therein, and with the motion sustained and granted as it should have been, there was no testimony whatever in the whole record, to support the decree of the court which allowed any set-off of any registered warrant at all in favor of plaintiff, and said decree was in consequence not supported by proper evidence, nor by sufficient evidence, and was rendered through error prejudicial to these defendants.

ASSIGNMENT OF ERROR No. X.

The entire record fails to disclose such a state of facts, as under the statutes of Arizona, which relate to and control the payment of registered warrants, would have permitted the Bank of Winslow to have applied any of the warrants held by it, in a reduction of the amount of county funds deposited with it, at the time the Superintendent of Banks took charge of the property and assets of said Bank of Winslow, and the District Court erred in entering its decree which permitted the application of \$9,414.37 of registered warrants in favor of plaintiff, which as to the bank itself would not have been so applied. And the decree in that regard is not supported by the evidence, and is contrary to law and equity.

ASSIGNMENT OF ERROR No. XI.

For the reason that the District Court erred in overruling motions made in behalf of these defendants at the conclusion of the hearing, in which motions these defendants urged reasons for such an order of dismissal as appear in the preceding assignments of error, and which for reasons of brevity are not here again repeated, and were and are reasons fully supporting those motions for dismissal, and are again urged as reasons why the Bill should have been dismissed, and that the denial of such motions was error prejudicial to these defendants.

ASSIGNMENT OF ERROR No. XII.

That the statutes of the State of Arizona which

require the executing by a bank of a depository bond to secure deposits of county funds therein, are to the intended purpose and effect of preventing any question of any relation of creditor and debtor arising with respect to such deposits, and, to prevent in the event of an insolvency of a depository bank, any question of priority of preference arising as between the county as to its deposits, and other general creditors, also depositors therein; that the District Court, in its decree erred in failing to apply the state laws to the above purpose and intended effect, and by directing a set-off to the amount of registered warrants held by the bank, in partial discharge of *plaintiff* liability as a surety, in fact and in effect created a preference in favor of plaintiff, and the decree in that regard is contrary to law and equity.

WHEREFORE, the defendants, A. T. Hammons, Superintendent of Banks of the State of Arizona; J. S. Dodson, Special Deputy Superintendent of Banks of Arizona, pray that the said final decree of the District Court of the United States for the District of Arizona, sustaining the plaintiff's bill may be reversed to the full extent, and to that extent only which said decree grants relief by set-off and otherwise as against these appealing defendants in favor of plaintiff, and that said court may be ordered to enter a decree in accordance with the prayers in said answer dismissing said bill or in such other form as to said Circuit Court of Appeals for the Ninth Circuit shall deem Just.

Dated this 25th day of June, A. D. 1926.

SIDNEY SAPP,

Holbrook, Arizona.

D. E. McLAUGHLIN,

Holbrook, Arizona.

JOHN W. MURPHY,

Attorney General.

WILL E. RYAN,

Special Counsel,

Phoenix, Arizona.

Solicitors for Defendants and Appellents.

Business Address: Phoenix, Arizona.

O. K.—E. M. W.

ORDER.

In the above-entitled cause and matter, the foregoing and annexed petition for appeal having been duly presented,

IT IS ORDERED: That the prayer of said petition, and said appeal is granted and allowed upon the giving of a bond in the sum of Eight Thousand (\$8,000.00) Dollars, conditioned as required by law, and that upon the filing and approval of said bond, that citation on said appeal be duly issued directed to the appellee, and that other proceedings for perfecting said appeal may be had under the rules and practice of the Court.

Dated, June 26th, A. D. 1926.

F. C. JACOBS,

Judge.

O. K.—M.

(From the "Winslow Mail," August 1, 1924.)

NAVAJO COUNTY BUDGET

For the Fiscal Year Ending June 30, 1925.

Schedule No. 1.

GENERAL FUND.

	Adopted Budget Past Fiscal Year.	Actual Expenditures Past Year.	Estimated Present Year.
Assessor, Salary	\$ 1,800.00	\$ 1,800.00	\$ 2,215.00
Chief Deputy, Salary	1,500.00	1,270.00	1,500.00
Office Supplies	750.00	1,071.81	750.00
	<hr/>	<hr/>	<hr/>
Total	\$ 4,050.00	\$ 4,291.81	\$ 4,465.00

	Adopted Budget Past Fiscal Year.	Actual Expenditures Past Year.	Estimated Present Year.
ATTORNEY'S OFFICE—			
Attorney, Salary	2,000.00	2,000.16	2,460.00
Deputy, Salary		225.00	
Stenographer	900.00	900.00	900.00
Office Supplies	900.00	985.36	900.00
	<hr/>		
Total	\$ 3,800.00	\$ 4,110.46	\$ 4,260.00
BOARD OF SUPERVISORS—			
Chairman, Salary	1,200.00	1,200.00	1,290.00
Members, Salaries, (2)	2,000.00	2,000.00	2,185.00
Clerk, Salary	1,800.00	1,800.00	1,800.00
Printing, Stationery and Supplies	1,000.00	2,010.04	1,000.00
Publishing Minutes	500.00	381.57	500.00
Transportation Expense	500.00	873.67	500.00
	<hr/>		
Total	\$ 7,150.00	\$8,264.84	\$ 7,275.00

	Adopted Budget Past Fiscal Year.	Actual Expenditures Past Year.	Estimated Present Year.
COURT HOUSE AND PARK MAINTENANCE—			
Janitor, Salary	750.00	780.00	750.00
Repairs and Maintenance	1,000.00	1,073.62	500.00
Water	500.00	663.00	500.00
Fuel	400.00	411.45	400.00
Lights	300.00	454.13	300.00
Telephones and Telegrams	1,200.00	1,521.18	1,200.00
Supplies	1,000.00	876.22	500.00
Insurance	500.00	1,252.62	700.00
Total	<u>\$ 5,650.00</u>	<u>\$ 7,032.22</u>	<u>\$ 4,850.00</u>
ELECTIONS—			
Registrations	250.00	225.10	800.00
Election Officers, per diem		215.13	2,500.00

	Adopted Budget Past Fiscal Year.	Actual Expenditures Past Year.	Estimated Present Year.
Printing and Supplies		1.50	1,200.00
Total	\$ 250.00	\$ 441.73	\$ 4,500.00
HEALTH DEPARTMENT—			
Superintendent, Salary	600.00	650.00	600.00
Superintendent, Expense		260.90	
Indigent Supplies	2,400.00	2,723.92	2,400.00
Indigent Transportation	200.00	153.55	200.00
Indigent Burial	200.00	195.00	200.00
Quarantine Expense	750.00	3,883.05	700.00
County Hospital Supplies and Expense	50.00	185.35	50.00
Coroner's Expense	50.00	116.60	50.00
Examination of Insane	50.00	15.00	50.00
Reg. Vital Statistics.....	150.00	151.50	150.00
Total	\$ 4,450.00	\$ 8,334.97	\$ 4,400.00

	Adopted Budget Past Fiscal Year.	Actual Expenditures Past Year.	Estimated Present Year.
JUSTICE COURTS—			
Justice Salaries	3,035.00	3,037.84	3,215.00
Constable Salary	1,712.00	1,282.50	1,785.00
Expenses	1,100.00	679.68	700.00
	<hr/>	<hr/>	<hr/>
Total	\$ 5,847.00	\$ 5,000.02	\$ 5,200.00
MISCELLANEOUS EXPENSES—			
Fair, county and state		339.10	350.00
Immigration Commissioner	150.00		
Farm Advisor	750.00	750.00	1,500.00
Miscellaneous	200.00	4,339.26	500.00
	<hr/>	<hr/>	<hr/>
Total	\$ 1,100.00	\$ 5,428.36	\$ 2,350.00
RECORDER'S OFFICE—			
Recorder's Salary	1,800.00	1,950.00	2,215.00
Chief Deputy Salary	1,500.00	1,460.00	1,500.00

	Adopted Budget Past Fiscal Year.	Actual Expenditures Past Year.	Estimated Present Year.
Office Supplies	400.00	272.08	300.00
Total	\$ 3,700.00	\$ 3,682.08	\$ 4,015.00
SHERIFF'S OFFICE—			
Sheriff's Salary	3,000.00	3,000.00	3,550.00
Chief Deputy Salary	1,800.00	1,800.00	1,800.00
Deputies (2) Salary	2,260.00	2,700.00	3,000.00
Traveling Expense	2,000.00	5,493.51	2,000.00
Prisoners' Meals	1,000.00	2,212.00	1,000.00
Office Supplies	300.00	2,055.85	400.00
Total	\$ 10,360.00	\$ 17,262.26	\$ 11,750.00
SUPERIOR COURT—			
Judge Salary	1,500.00	1,500.00	1,500.00
Clerk, Salary	1,800.00	1,800.00	2,215.00
Chief Deputy, Salary	600.00	600.00	600.00

	Adopted Budget Past Fiscal Year.	Actual Expenditures Past Year.	Estimated Present Year.
Reporter's Salary	1,800.00	1,800.00	1,800.00
Jurors' Fees and Mileage	4,500.00	7,532.25	4,500.00
Office Supplies	300.00	230.77	300.00
Interpreters	100.00	107.50	100.00
Foreign Judges and Witnesses	400.00	548.50	400.00
	<hr/>	<hr/>	<hr/>
Total	\$ 11,000.00	\$ 14,119.02	\$ 11,415.00
TREASURER'S OFFICE—			
Treasurer's Salary	2,000.00	2,000.16	2,230.00
Chief Deputy, Salary	100.00	200.00	100.00
Office Supplies	400.00	144.47	150.00
	<hr/>	<hr/>	<hr/>
Total	\$ 2,500.00	\$ 2,344.63	\$ 2,480.00

	Adopted Budget Past Fiscal Year.	Actual Expenditures Past Year.	Estimated Present Year.
Schedule No. 2.			
ROAD FUND.			
ENGINEER'S OFFICE—			
Engineer's Salary	2,700.00	3,100.00	3,000.00
Office Expense and Supplies	1,000.00	250.00	250.00
Total	<u>\$ 3,700.00</u>	<u>\$ 3,350.00</u>	<u>\$ 3,250.00</u>
ROADS AND BRIDGES—			
New Construction		7,472.13	
Maintenance	16,000.00	19,262.61	15,750.00
Equipment	1,000.00	894.83	1,000.00
Maintenance, Snowflake-Pinetop Project ...	3,000.00	3,031.94	3,000.00
Special levy, flood control		10,000.00	10,000.00
Total	<u>\$ 23,700.00</u>	<u>\$ 44,011.51</u>	<u>\$ 33,000.00</u>

Schedule No. 3.
GENERAL COUNTY BONDS

PURPOSE OF EXPENDITURES—

COUNTY

ROAD BONDS—

	Adopted Budget Past Year.	Actual Exp. Past Fiscal Year.	Estimated Expend. Present Year.	Treasurer's Balance or Deficit, Bal. on Hand Ju. 1	Estimated Exp. Present Year After Consl. of Bal. and Def.
Interest	\$ 23,832.00	\$ 17,863.69	\$ 20,150.00	\$ 4,162.43	\$ 19,437.00
Redemption	3,500.00		4,500.00	14,604.71	4,500.00
Total	\$ 27,332.00	\$ 17,863.69	\$ 24,650.00	\$ 18,767.14	\$ 23,937.00

Schedule No. 15.
 SCHOOL DISTRICT BONDS.
 (Special District Levies.)

S. D. No. 1, H. 11-20-11, Int.....	\$ 1,200	\$1,050.00	\$1,020	\$ 20.00	\$ 1,000
Red	1,500		1,500	6,562.67	1,500
S. D. No. 1, C, 10-1-10, Int.....	180	180.93	180	35.00	215
Red	500		3,000	990.00	3,000
S. D. No. 1, C, 7-3-16, Int.....	2,200	2,226.00	2,220	610.00	1,510
Red ..	2,000		7,000	9,114.23	7,000
S. D. No. 1, C, 4-1-20, Int.....	1,500	1,474.42	1,250	330.00	1,580
Red	1,500		500	2,772.12	500
S. D. No. 2, C, 4-5-15, Int.....	420	360.00	240	230.00	190
Red	1,011		1,000	1,133.69	1,000
S. D. No. 3, C, 9-1-15, Int.....	1,200	1,001.00	1,000	165.00	835
Red	1,500		2,000	3,620.00	2,000

S. D. No. 3, C, 2-5-17, Int.....	360	360.88	316	115.00	425
Red	1,300		500	1,716.00	500
S. D. No. 5, C, 5-18-18, Int.....	1,500	1,680	1,250	415.00	835
Red	2,000		800	3,507.29	800
S. D. No. 6, C, 1-15-23, Int.....	870	586.25	435		435
Red			500		500
S. D. No. 10, C, 5-16-18, Int.....	330	330.00	330	710.00	380
Red	800		500	596.00	500
S. D. No. 16, C, 11-1-16, Int.....	240	525.00	240	130.00	370
Red	800		500	788.00	500
Totals	\$22,931	\$9,774.48	\$26,325	\$33,560.00	\$25,575

SCHEDULE No. 16.

Receipts from all other sources other than direct taxation.

GENERAL COUNTY FUND—

	Estimated Past Fiscal Year	Actual Past Fiscal Year	Est. Present Fiscal Year
Interest County Deposits.....	\$ 1,500.00	\$ 2,305.00	\$ 2,000.00
Interest Delinquent Taxes.....	1,500.00	1,312.00	1,500.00
Justice Court Fees.....	300.00	551.00	500.00
Justice Court Fines.....	1,200.00	372.00	500.00
Licenses (Sheriff)	700.00	700.00	700.00
Recorder's Fees	2,500.00	2,935.00	2,500.00
Sheriff's Fees	600.00	953.00	900.00
Superior Court Fees	3,000.00	3,236.00	3,000.00
Superior Court Fines	1,200.00	2,253.00	2,000.00
U. S. Prisoners' Meals.....		307.00	
Constable Fees		57.00	
Total	\$12,500.00	\$14,981.00	\$13,600.00

	Estimated Past Fiscal Year	Actual Past Fiscal Year	Est. Present Fiscal Year
GENERAL ROAD FUND—			
Forest Reserve Fund	\$ 2,250.00	\$ 2,255.00	\$ 2,250.00
Gasoline Tax		9,878.00	10,000.00
Road Poll Tax	750.00	1,012.00	1,000.00
Miscellaneous Roads		1,578.00	1,500.00
		<hr/>	<hr/>
Total.....	\$ 3,000.00	\$14,723.00	\$14,750.00
GENERAL COUNTY SCHOOL FUND—			
Forest Reserve Fund	\$ 2,250.00	\$ 2,255.00	\$ 2,250.00
School Poll Tax	3,500.00	4,037.00	3,500.00
State School Apportionment	62,410.00	50,173.00	50,000.00
		<hr/>	<hr/>
Total.....	\$68,160.00	\$56,465.00	\$55,750.00
GENERAL HIGH SCHOOL FUND—			
State Aid to High School.....	\$ 6,500.00	\$ 6,500.00	\$ 7,000.00
		<hr/>	<hr/>
Grand Total.....	\$74,660.00	\$62,965.00	\$62,750.00

SCHEDULE No. 10, 11, 13 and 14.

S. D. No.	Av. Att. 6 Mos.	Total Last Year Budget, Plus Bal., etc.	Total Exp. Last Year Plus O. D.	Bal. or Def. Def. Starred	Est. Exp. 1924-1925	Gen. Levy	Special Dist. Levy
1	705	\$59,598.00	\$58,940.00	\$ 657.86	\$53,701.00	\$49,350.00	\$ 4,351.00
2	82	5,060.00	4,861.39	198.61	8,880.00	5,740.00	3,140.00
3	183	19,930.00	18,814.66	1,115.34	19,930.00	12,810.00	7,120.00
4	39	3,510.66	2,975.20	535.46	3,000.00	3,000.00	
5	200	22,908.19	19,915.30	2,992.82	18,000.00	14,000.00	
6	140	13,521.31	10,740.67	2,780.70	11,205.00	9,800.00	1,505.00
7	8	1,500.00	1,509.01	9.01*	1,500.00	1,500.00	
8	18	1,524.16	1,490.75	3,341.00	1,500.00	1,500.00	
9	90	3,475.16	2,917.04	558.12	3,000.00	3,000.00	
10	90	6,573.92	6,655.39	81.47*	6,400.00	6,300.00	4 100.00
11	48	3,001.50	3,475.29	424.29*	3,360.00	3,360.00	
12	16	1,500.00	1,289.90	210.10	1,500.00	1,500.00	
13	24	2,220.89	2,178.09	24.70	1,500.00	1,500.00	
14	13	1,511.43	1,502.25	9.18	1,500.00	1,500.00	

S. D. No.	Av. Att. 6 Mos.	Total Last Year Budget, Plus Bal., etc.	Total Exp. Last Year Plus O. D.	Bal. or Def. Def. Starred	Est. Exp. 1924-1925	Gen. Levy	Special Dist. Levy
15	12	1,679.07	1,411.05	268.02	1,500.00	1,500.00	
16	95	6,060.00	7,665.11	1,605.11	7,350.00	6,650.00	700.00
17	9	1,500.00	1,331.98	1,168.07	Discontinued		
18	15	1,796.50	1,476.20	320.30	1,500.00	1,500.00	
19	20	1,618.75	1,588.30	330.45	1,500.00	1,500.00	
20	24	1,811.94	1,666.81	145.13	1,500.00	1,500.00	
22	14	1,660.49	1,496.03	164.46	1,500.00	1,500.00	
23	21	1,814.87	1,723.86	91.01	1,500.00	1,500.00	
24	15	1,573.80	1,410.80	163.00	Discontinued		
25	13	1,500.00	1,414.62	85.28	1,500.00	1,500.00	
26	7	1,500.00	1,489.68	10.32	Discontinued		
HIGH SCHOOLS—							
1	97	27,411.00	18,719.87	8,294.13	21,145.00	6,790.00	6,061.00
3	57	11,835.00	11,131.28	703.72	12,000.00	3,390.00	7,907.00

SUMMARY OF EXPENDITURES AND AMOUNTS TO BE RAISED BY DIRECT TAXATION.

General County Requirements—

	Adopted Budget Past Fiscal Year	Actual Exp. for Past Year	Budget Present Year	Less Receipts Schedule No. 16	Est. Exp. to be Raised by Direct Tax.
Gen. Co. Fund.....	60,610.00	80,152.30	66,960.00	13,600.00	53,360.00
Gen. Road Fund.....	23,700.00	44,011.51	33,000.00	14,750.00	18,250.00
Gen. Co. Bonds.....	27,332.00	17,863.69	23,937.00		23,937.00
Gen. Sch. Fund.....	3,200.00	3,100.00	3,200.00		3,200.00
Gen. Com. School Main- tenance	150,920.00	158,939.33	132,010.00	55,750.00	76,260.00
Gen. H. School Main- tenance	11,396.00	29,351.15	19,280.00	7,000.00	12,280.00
Totl. Co. Req.....	\$277,158.00	\$333,917.98	\$278,387.00	\$91,100.00	\$187,287.00
Special District Levies— Common School Mainte- nance	13,797.61	Incl. above	16,816.00		16,816.00
High School Maintenance..	25,990.94	Incl. above	20,750.00		20,750.00
Total Req. All Purp.....	\$316,946.55	\$333,917.98	\$315,953.00	\$91,100.00	\$224,853.00

Schedule No. 19.

TEN PER CENT LIMIT CHECK ACTUAL
LEVIES.

(Applies to General and Road Fund Only.)

	Actual Levies For Past Fiscal Year	Est. Exp. to be Raised by Direct Taxation for Present Fiscal Yr.
General Fund.....	\$48,110.00	\$53,360.00
Road Fund	20,700.00	18,250.00
	<hr/>	<hr/>
Total	\$68,810.00	\$71,610.00
Add 10 per cent allowed by law	6,881.00	
	<hr/>	<hr/>
Amount allowed by law....	\$75,691.00	\$71,610.00

All taxpayers of Navajo County, Arizona, are hereby notified that the Board of Supervisors will meet at its office in Holbrook, Arizona, on the 18th day of August, 1924, at 10 o'clock A. M. for the purpose of making tax levies in accordance with the foregoing estimate as amended and finally adopted as hereafter provided.

All taxpayers of Navajo County, Arizona, are hereby further notified that said Board of Supervisors will hold a public hearing at its office in Holbrook, Arizona, on the 11th day of August, 1924, at 10 o'clock A. M., when and where any taxpayer of Navajo County will be heard in favor or against any of the proposed tax levies, after which hearing the foregoing estimates as modified will be adopted by the said Board of Supervisors

as a basis of taxation for fiscal year ending June 30, 1925.

C. E. OWENS,

Chairman Board of Supervisors.

WALLACE ELLSWORTH,

Clerk Board of Supervisors.

O. K.—M. R. M.

CITATION ON APPEAL.

United States of America.

The President of the United States to Maryland Casualty Company, a Corporation, Plaintiff and Appellee, GREETING:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit in the City of San Francisco, State of California, on the 11th day of August, A. D. 1926, pursuant to an appeal duly obtained from a decree of the District Court of the United States for the District of Arizona, in cause No. 93-E. (Prescott), wherein A. T. Hammons, Superintendent of Banks of the State of Arizona, and J. S. Dodson, Special Deputy Superintendent of Banks of Arizona, are appellants, and you are appellee, to show cause, if any there be, why the said decree entered against the said appellants should not be corrected and why speedy justice should not be done to the parties in that behalf.

WITNESS: The Honorable FRED C. JACOBS, Judge of the District Court of the United States for the District of Arizona, this 13th day of

July, in the year of our Lord one thousand nine hundred and twenty-six.

F. C. JACOBS,
United States District Judge for the District of
Arizona.

Received this writ on the 15th day of July, 1926, at Tucson, Dist. of Ariz., and on the 15th day of July, 1926, at 11:50 A. M., I served the same by handing a true copy thereof with the endorsement thereon to the said Samuel L. Pattee, personally at Tucson, Arizona.

G. A. MAUK,
U. S. Marshal for the Dist. of Arizona.
By Tom Wills,
Deputy U. S. Marshal.

O. K.—M.

BOND.

KNOW ALL MEN BY THESE PRESENTS, that we, A. T. Hammons, Superintendent of Banks of the State of Arizona, and J. S. Dodson, as Special Superintendent of Banks of Arizona, as principals, and the United States Fidelity and Guaranty Co. as surety, which surety is a corporation organized under the laws of the State of Maryland; and by its laws, and laws of the State of Arizona, is duly authorized and qualified to become surety upon appeal and other bonds in the State of Arizona, and upon this bond, and each held and firmly bound unto the Maryland Casualty Company, a corporation, in the sum of Eight Thousand Dollars (\$8,000.00) lawful money of the

United States, to be paid to the said Maryland Casualty Company, its successors or assigns, to which payment well and truly to be made, we and each of us bind ourselves jointly and severally, and each of our successors and assigns firmly by these presents.

Sealed with our seals, executed and dated the 1st day of July, A. D. 1926.

WHEREAS, the above-named Maryland Casualty Company as plaintiff in a certain cause in equity, in which the above-named principals of this bond, and others, were defendants, and being a cause No. E.-93, Prescott, in the District Court of the United States for the District of Arizona, on the 19th day of April, A. D. 1926, did obtain the final decree of said court, therein granting the said Maryland Casualty Company, a certain relief as against the principals of this bond. And said principals have appealed from said decree to the Circuit Court of Appeals of the United States, sitting at San Francisco, California, from all portions thereof granting the plaintiff any relief as against these principals, and for an order of said Court of Appeals, that the District Court be ordered to dismiss the bill of Maryland Casualty Company, in accordance with the prayer of the answer of these principals and defendants, interposed in the above cause. And said principals in this bond desire to supersede the effect of the decree of the District Court, so appealed from, pending a determination thereof.

NOW THEREFORE, the condition of this obligation is such that if the above principals in this bond, shall and do, as the appellants in their above-mentioned appeal, prosecute said appeal to effect, and answer to all damages and costs if they fail in said appeal, and pay to the Maryland Casualty Company all such costs as have accrued to it, and which may hereafter accrue to it, as well as all damages it may suffer on account of such appeal, upon such failure, then this obligation shall be void, otherwise to remain in full force and effect.

A. T. HAMMONS,

Superintendent of Banks of the State of Arizona.

J. S. DODSON,

By D. E. McLAUGHLIN,

One of His Attorneys of Record,

Principals.

[Corporate Seal of United States Fidelity and Guaranty Co.]

UNITED STATES FIDELITY AND
GUARANTY CO.

By LLOYD C. HENNING,

Attorney-in-fact.

Approved this 13th day of July, 1926.

F. C. JACOBS,

Judge.

O. K.—E. M. W.

ORDER ENLARGING TIME TO FILE RECORD
ON APPEAL IN THE CIRCUIT COURT
OF APPEALS.

In the above-entitled cause, the abstract of the evidence re-engrossed to include, appellee's amendments thereto having been filed and approved, and good cause appearing to the Court for this order, it is now

ORDERED that the time for the filing of the record on appeal herein in the Circuit Court of Appeals for the Ninth Circuit and the return day on the citation on appeal herein is extended to and including the first day of November, 1926.

Dated at Phoenix, Arizona, in Chambers, this 16th day of September, 1926.

F. C. JACOBS,
United States District Judge.

O. K.—E. M. W.

ORDER EXTENDING TIME THIRTY DAYS
FOR PREPARING AND FILING RECORD.

In the above-entitled cause it appearing to the Court that reasons exist due to unavoidable delay in the printing of the transcript of record, it is necessary that the defendants have an extension of time within which to prepare their appeal,—

IT IS THEREFORE ORDERED that the time for preparing and filing the transcript of record in the above-entitled cause be, and is hereby ex-

tended thirty days from and after the first day of November, 1926.

F. C. JACOBS,
Judge.

O. K.—E. M. W.

(Court and Cause.)

No. E.-93—Pret.

ORDER EXTENDING TIME TO AND INCLUDING DECEMBER 20, 1926, FOR PREPARING AND FILING ABSTRACT OF RECORD.

In the above-entitled cause, it appearing to the Court that the attorneys for the plaintiff have stipulated that the defendants may have until and including the 20th day of December, 1926, within which to print and file the abstract of record,—

IT IS THEREFORE ORDERED that the time for preparing and filing the abstract of record in said cause is extended to and including the 20th day of December, 1926.

Done this, the 1st day of December, 1926.

F. C. JACOBS,
Judge.

O. K.—M. R. M.

January 13, 1927.

(Court and Cause.)

No. E.-93—Pret.

ORDER EXTENDING TIME TO AND INCLUDING FEBRUARY 1, 1927, FOR PREPARING AND FILING RECORD.

In the above-entitled cause it appearing to the

Court that reasons exist due to unavoidable delay in the printing of the transcript of record, it is necessary that the defendants have an extension of time within which to prepare their appeal,—

IT IS THEREFORE ORDERED that the time for preparing and filing the transcript of record in the above-entitled cause be, and is hereby extended, up to and including the 1st day of February, 1927.

F. C. JACOBS,
Judge.

O. K.—M. R. M.

(Court and Cause.)

No. E.-93—Pret.

ORDER EXTENDING TIME TO MAKE RETURN OF CITATION FOR APPEAL.

In the above-entitled cause, it appearing to the Court that printed copies of proposed abstract of record for appeal are one file with the Clerk of court for certification, and that more time will be required for so doing, and that therein a necessity has arisen for extending the time within which to make return upon the citation on appeal, and file abstract of record in Court of Appeals, on motion of the solicitors for defendants and appellants,—

IT IS ORDERED: That the time for making return upon citation for appeal, and filing record on appeal to the United States Circuit Court of Appeals for the Ninth Judicial Circuit, be and

is hereby extended for a period of thirty (30) days from date hereof.

Done this 31st day of January, A. D. 1927.

F. C. JACOBS,
Judge of District Court.

O. K.—M. R. M.

(Court and Cause.)

No. E.-93—Pret.

ORDER EXTENDING TIME TO FILE
RECORD ON APPEAL IN THE CIRCUIT
COURT OF APPEALS.

In the above-entitled cause it appearing to the Court that reasons exist due to unavoidable delay in the printing of the transcript of record, it is necessary that the defendants have an extension of time within which to prepare their appeal,—

IT IS THEREFORE ORDERED that the time for preparing and filing with the Clerk of the Circuit Court of Appeals at San Francisco, California, the transcript of record in the above-entitled cause be, and is hereby, extended thirty days from and after this day.

Dated at Phoenix, Arizona, this 2d day of March, 1927.

F. C. JACOBS,
District Judge.

O. K.—M. R. M.

[Title of Court and Cause.]

ORDER EXTENDING TIME TO FILE
RECORD OF APPEAL AND RETURN OF
CITATION ON APPEAL IN CIRCUIT
COURT OF APPEALS.

In the above-entitled cause and matter, it appearing that unavoidable delay has arisen in connection with the certifying and making of the necessary return upon the citation upon appeal, due to mistakes made by the printer in preparing a printed abstract of record for such certification, and that further time will be necessary to complete the certification and return to the citation to the Circuit Court of Appeals, therefore upon application of the solicitors for the defendants,—

IT IS ORDERED: That the time *within a* return may be made to the citation on appeal, and a certified copy of the record of said appeal may be returned to the Circuit Court of Appeals, be and is extended 30 days from and after March 31st, A. D. 1927.

Dated March 31st, 1927.

F. C. JACOBS,
District Judge.

[Endorsed]: Filed Mar. 31, 1927.

O. K.—M. R. M.

[Title of Court and Cause.]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT OF RECORD.

United States of America,
District of Arizona,—ss.

I, C. R. McFall, Clerk of the District Court of the United States for the District of Arizona, do hereby certify that I am the custodian of the records, papers and files of the said United States District Court for the District of Arizona, including the records, papers and files in the case of Maryland Casualty Company, a Corporation, Plaintiff, versus A. T. Hammons, etc., et al., Defendants, said case being numbered 93 on the Equity Docket of the Prescott Division of this court.

I further certify that pages 5 to 308, inclusive, of the foregoing abstract of record constitutes a full, true and correct copy of the original records, papers and files in said case remaining on file and of record in my office, except the endorsements on said originals, including my filing endorsement, which said endorsements have been omitted from this certified transcript of the record by direction of the solicitors for the defendants (appellants). I further certify that no praecipe was filed by counsel for either party.

And I further certify that there is also annexed to this transcript the original Citation on Appeal issued in said cause.

And I further certify that the cost of comparing said abstract of record, amounting to Forty-eight and 20-100 Dollars has been paid to me by the above-named defendants (appellants).

WITNESS my hand and the seal of said court this 28th day of April, 1927.

[Seal] C. R. McFALL,
Clerk, United States District Court in and for the
District of Arizona.

By M. R. Malcolm,
Deputy Clerk.

[Endorsed]: No. 5136. United States Circuit Court of Appeals for the Ninth Circuit. A. T. Hammons, Superintendent of Banks of the State of Arizona, and J. S. Dodson, Special Deputy Superintendent of Banks for the State of Arizona, Appellants, vs. Maryland Casualty Company, a Corporation, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the District of Arizona.

Filed May 2, 1927.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

